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SITTING DAYS—2006

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- SYDNEY 630 AM
- NEWCASTLE 1458 AM
- GOSFORD 98.1 FM
- BRISBANE 936 AM
- GOLD COAST 95.7 FM
- MELBOURNE 1026 AM
- ADELAIDE 972 AM
- PERTH 585 AM
- HOBART 747 AM
- NORTHERN TASMANIA 92.5 FM
- DARWIN 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—SIXTH PERIOD

Governor-General

His Excellency Major-General Michael Jeffery, Companion in the Order of Australia, Commander of the Royal Victorian Order, Military Cross

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert

Deputy President and Chairman of Committees—Senator John Joseph Hogg


Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin

Deputy Leader of the Government in the Senate—Senator the Hon. Helen Lloyd Coonan

Leader of the Opposition in the Senate—Senator Christopher Vaughan Evans

Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy

Manager of Government Business in the Senate—Senator the Hon. Christopher Martin Ellison

Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders and Whips

Leader of the Liberal Party of Australia—Senator the Hon. Nicholas Hugh Minchin

Deputy Leader of the Liberal Party of Australia—Senator the Hon. Helen Lloyd Coonan

Leader of The Nationals—Senator the Hon. Ronald Leslie Doyle Boswell

Deputy Leader of The Nationals—Senator the Hon. John Alexander Lindsay (Sandy) Macdonald

Leader of the Australian Labor Party—Senator Christopher Vaughan Evans

Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy

Leader of the Australian Democrats—Senator Lynette Fay Allison

Leader of the Australian Greens—Senator Robert James Brown

Leader of the Family First Party—Senator Steve Fielding

Liberal Party of Australia Whips—Senators Jeannie Margaret Ferris and Alan Eggleston

Nationals Whip—Senator Nigel Gregory Scullion

Opposition Whips—Senators George Campbell, Linda Jean Kirk and Ruth Stephanie Webber

Australian Democrats Whip—Senator Andrew John Julian Bartlett

Australian Greens Whip—Senator Rachel Siewert

Printed by authority of the Senate
## Members of the Senate

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(1) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. John Joseph Herron, resigned.
(2) Chosen by the Parliament of Victoria to fill a casual vacancy vice Hon. Richard Kenneth Robert Alston, resigned.
(3) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
(4) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Susan Mary Mackay, resigned.
(5) Chosen by the Parliament of South Australia to fill a casual vacancy vice Hon. Robert Murray Hill, resigned.

PARTY ABBREVIATIONS
AD—Australian Democrats; AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Labor Party; FF—Family First Party; LP—Liberal Party of Australia; NATS—The Nationals

Heads of Parliamentary Departments
Clerk of the Senate—H Evans
Clerk of the House of Representatives—I C Harris
Secretary, Department of Parliamentary Services—H R Penfold QC
HOWARD MINISTRY

Prime Minister  The Hon. John Winston Howard MP
Minister for Trade and Deputy Prime Minister  The Hon. Mark Anthony James Vaile MP
Treasurer  The Hon. Peter Howard Costello MP
Minister for Transport and Regional Services  The Hon. Warren Errol Truss MP
Minister for Defence  The Hon. Dr Brendan John Nelson MP
Minister for Foreign Affairs  The Hon. Alexander John Gosse Downer MP
Minister for Health and Ageing and Leader of the House  The Hon. Anthony John Abbott MP
Attorney-General  The Hon. Philip Maxwell Ruddock MP
Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council  Senator the Hon. Nicholas Hugh Minchin
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House  The Hon. Peter John McGauran MP
Minister for Immigration and Multicultural Affairs  Senator the Hon. Amanda Eloise Vanstone
Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues  The Hon. Julie Isabel Bishop MP
Minister for Families, Community Services and Indigenous Affairs  The Hon. Malcolm Thomas Brough MP
Minister Assisting the Prime Minister for Indigenous Affairs
Minister for Industry, Tourism and Resources  The Hon. Ian Elgin Macfarlane MP
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service  The Hon. Kevin James Andrews MP
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate  Senator the Hon. Helen Lloyd Coonan
Minister for the Environment and Heritage  Senator the Hon. Ian Gordon Campbell

(The above ministers constitute the cabinet)
| HOWARD MINISTRY—continued |
|--------------------------|-----------------------------|
| Minister for Justice and Customs and Manager of Government Business in the Senate | Senator the Hon. Christopher Martin Ellison |
| Minister for Fisheries, Forestry and Conservation | Senator the Hon. Eric Abetz |
| Minister for the Arts and Sport | Senator the Hon. Charles Roderick Kemp |
| Minister for Human Services | The Hon. Joseph Benedict Hockey MP |
| Minister for Community Affairs | The Hon. John Kenneth Cobb MP |
| Minister for Revenue and Assistant Treasurer | The Hon. Peter Craig Dutton MP |
| Special Minister of State | The Hon. Gary Roy Nairn MP |
| Minister for Vocational and Technical Education and Minister Assisting the Prime Minister | The Hon. Gary Douglas Hardgrave MP |
| Minister for Ageing | Senator the Hon. Santo Santoro |
| Minister for Small Business and Tourism | The Hon. Frances Esther Bailey MP |
| Minister for Local Government, Territories and Roads | The Hon. James Eric Lloyd MP |
| Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence | The Hon. Bruce Frederick Billson MP |
| Minister for Workforce Participation | The Hon. Dr Sharman Nancy Stone MP |
| Parliamentary Secretary to the Minister for Finance and Administration | Senator the Hon. Richard Mansell Colbeck |
| Parliamentary Secretary to the Minister for Industry, Tourism and Resources | The Hon. Robert Charles Baldwin MP |
| Parliamentary Secretary to the Minister for Health and Ageing | The Hon. Christopher Maurice Pyne MP |
| Parliamentary Secretary to the Minister for Defence | Senator the Hon. John Alexander Lindsay (Sandy) Macdonald |
| Parliamentary Secretary (Trade) | The Hon. De-Anne Margaret Kelly MP |
| Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs | The Hon. Andrew John Robb MP |
| Parliamentary Secretary to the Prime Minister | The Hon. Malcolm Bligh Turnbull MP |
| Parliamentary Secretary to the Treasurer | The Hon. Christopher John Pearce MP |
| Parliamentary Secretary to the Minister for the Environment and Heritage | The Hon. Gregory Andrew Hunt MP |
| Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry | The Hon. Sussan Penelope Ley MP |
| Parliamentary Secretary to the Minister for Education, Science and Training | The Hon. Patrick Francis Farmer MP |
| Parliamentary Secretary (Foreign Affairs) | The Hon. Teresa Gambaro MP |
## SHADOW MINISTRY

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<tr>
<td>Leader of the Opposition</td>
<td>The Hon. Kim Christian Beazley MP</td>
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<tr>
<td>Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research</td>
<td>Jennifer Louise Macklin MP</td>
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<td>Leader of the Opposition in the Senate, Shadow Minister for Indigenous Affairs and Shadow Minister for Family and Community Services</td>
<td>Senator Christopher Vaughan Evans</td>
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<tr>
<td>Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology</td>
<td>Senator Stephen Michael Conroy</td>
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<tr>
<td>Shadow Minister for Health and Manager of Opposition Business in the House</td>
<td>Julia Eileen Gillard MP</td>
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<td>Shadow Attorney-General</td>
<td>Nicola Louise Roxon MP</td>
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<td>Shadow Minister for Industry, Infrastructure and Industrial Relations</td>
<td>Stephen Francis Smith MP</td>
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<td>Shadow Minister for Foreign Affairs and Trade and Shadow Minister for International Security</td>
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<td>The Hon. Simon Findlay Crean MP</td>
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<td>Shadow Minister for Primary Industries, Resources, Forestry and Tourism</td>
<td>Martin John Ferguson MP</td>
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<td>Shadow Minister for Environment and Heritage, Shadow Minister for Water and Deputy Manager of Opposition Business in the House</td>
<td>Anthony Norman Albanese MP</td>
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<td>Kelvin John Thomson MP</td>
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<td>Shadow Minister for Finance</td>
<td>Lindsay James Tanner MP</td>
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<td>Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services</td>
<td>Senator the Hon. Nicholas John Sherry</td>
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<td>Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women</td>
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<td>Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility</td>
<td>Senator Penelope Ying Yen Wong</td>
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(The above are shadow cabinet ministers)
SHADOW MINISTRY—continued

Shadow Minister for Consumer Affairs and
Shadow Minister for Population Health and
Health Regulation
Laurie Donald Thomas Ferguson MP

Shadow Minister for Agriculture and Fisheries
Shadow Assistant Treasurer, Shadow Minister for
Revenue and Shadow Minister for Small
Business and Competition
Gavan Michael O’Connor MP
Joel Andrew Fitzgibbon MP

Shadow Minister for Transport
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Sport and Recreation
Senator Kate Alexandra Lundy

Shadow Minister for Homeland Security and
Shadow Minister for Aviation and Transport
Security
The Hon. Archibald Ronald Bevis MP

Shadow Minister for Veterans’ Affairs and
Shadow Special Minister of State
Alan Peter Griffin MP

Shadow Minister for Defence Industry,
Procurement and Personnel
Senator Thomas Mark Bishop

Shadow Minister for Immigration
Anthony Stephen Burke MP

Shadow Minister for Ageing, Disabilities and
Carers
Senator Jan Elizabeth McLucas

Shadow Minister for Justice and Customs and
Manager of Opposition Business in the Senate
Senator Joseph William Ludwig

Shadow Minister for Overseas Aid and Pacific
Island Affairs
Robert Charles Grant Sercombe MP

Shadow Minister for Citizenship and Multicultural
Affairs
Senator Annette Hurley

Shadow Parliamentary Secretary for
Reconciliation and the Arts
Peter Robert Garrett MP

Shadow Parliamentary Secretary to the Leader of
the Opposition
John Paul Murphy MP

Shadow Parliamentary Secretary for Defence and
Veterans’ Affairs
The Hon. Graham John Edwards MP

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Environment
and Heritage
Jennie George MP

Shadow Parliamentary Secretary for Industry,
Infrastructure and Industrial Relations
Bernard Fernando Ripoll MP

Shadow Parliamentary Secretary for Immigration
Ann Kathleen Corcoran MP

Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP

Shadow Parliamentary Secretary for Science and
Water
Senator Ursula Mary Stephens

Shadow Parliamentary Secretary for Northern
Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
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THURSDAY, 22 JUNE

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**Thursday, 22 June 2006**

The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 am and read prayers.

**PETITIONS**

The Clerk—Petitions have been lodged for presentation as follows:

**Information Technology: Internet Content**

To the Honourable the President and Members of the Senate in Parliament assembled

We, the undersigned citizens of Australia draw to the attention of the Senate the common incidence of children being exposed to Internet websites portraying explicit sexual images. These images may involve children/teens, sexual violence, bestiality, and other disturbing material. Many such websites use aggressive, deceptive or intrusive techniques to induce viewing. We submit to the Senate that:

- Exposure to pornography is a form of sexual assault against children and should be considered, like all sexual abuse of children, as a serious matter causing lasting harm.
- It is not adequate to charge individual parents with the chief responsibility for protecting their children from Internet pornographers determined to promote their product, OR to expect parents to teach children to cope with the damaging effects of pornographic images AFTER exposure.
- It is the primary duty of community and Government to prevent children being exposed to pornography in the first place by placing restrictions on pornographers and those businesses distributing such material.
- Internet Service Providers (ISPs), should accept responsibility for protecting children from Internet pornography, including liability for harm caused to children by inadequate efforts to protect minors from exposure.

Your petitioners therefore, pray that the Senate take legislative action to restrict children’s exposure to Internet pornography. We support the introduction of mandatory filtering of pornographic content by ISPs and age verification technology to restrict minor’s access.

by Senator Sandy Macdonald (from 91 citizens).

**Asylum Seekers**

Petition to the Honourable the President and Members of the Federal Senate in Canberra.

The Petition of the Citizens of Australia states that:

1. The rich Christian heritage of political freedom that we enjoy in Australia has benefited all Australians; and was confirmed when we became a Federated Commonwealth in 1901 with the adoption of the Australian Constitution, the Preamble of which states, ‘Humbly relying on the blessing of Almighty God’.

2. Many Christians around the world suffer persecution for their faith in countries where Christian principles are not enjoyed and seek refuge in our nation of Australia.

3. The need of these Christians is an urgent need and their Christian beliefs and practices are compatible with the principles on which our Nation was established.

Your petitioners therefore humbly pray that immigration policies be framed to expedite the entry of Christian refugees into Australia.

And your petitioners, as in duty bound, will ever pray.

by Senator Sandy Macdonald (from 17 citizens).

**Asylum Seekers**

To the honourable President and members of the Senate in Parliament assembled:

The petition of the undersigned shows:

That the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006 can mean children in detention again. Indefinite detention will return, and case managed mental health care is over. The Commonwealth Immigration Ombudsman will also lose oversight of asylum seekers when they are sent to a remote foreign island for processing.

Your petitioners request that the Senate:

Vote against the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006.
Pregnancy Counselling Services

To the Honourable Members of the Senate Assembled:

The petitioners affirm that:

"Women are entitled to protection from deceptive advertising and misleading information, and have the right to know if they are contacting an anti-choice pregnancy counselling service."

And call on Senators to:

"Please move to regulate pregnancy counselling immediately and ensure Government-funded counsellors provide objective and truthful information about all available pregnancy options."

This petition is presented in support of the Transparent Advertising and Notification of Pregnancy Counselling Services Bill.

by Senator McLucas (from 27 citizens).

Petitions received.

NOTICES

Presentation

Senator WATSON (Tasmania) (9.31 am)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that 15 sitting days after today I shall move that the following legislative instruments, a list of which I shall hand to the Clerk, be disallowed.

The list read as follows—

Banking (Prudential Standard) Determination No. 1 of 2006 made under paragraphs 11AF(1)(a) and (b) of the Banking Act 1959.


[Legislative Instruments Act 2003 provisions apply to the instruments listed above: must be resolved within 15 sitting days after today or they will be deemed to have been disallowed.]

I seek leave to incorporate in Hansard a short summary of the matters raised by the committee.

Leave granted.

The summary read as follows—

Banking (Prudential Standard) Determination No. 1 of 2006

Insurance (Prudential Standard) Determination No. 4 of 2006

Life Insurance (Prudential Standard) Determination No. 1 of 2006

Each of these instruments imposes an obligation on the relevant institution to retain sufficient documentation for each assessment, in order to demonstrate the fitness and propriety of the institution’s current, and recently past, responsible persons (see clauses 32, 34, and 30, respectively, of these three Determinations). The clauses do not sufficiently indicate the time period for which such records should be kept. The Minister has advised that these Standards have adopted a principles-based approach to the requirement of the retention of records rather than stating a specific
timeframe. The Committee is seeking further information from the Minister on this obligation.
 Broadcasting Services (Anti-Terrorism Requirements for Subscription Television Narrowcasting Television Services) Standard 2006
 Sections 6 and 7 in each of this Standard prohibits a licensee from broadcasting programs that could reasonably be construed either as recruiting people to join terrorist organisations, or as soliciting funds for such organisations. A licensee will be in breach of these standards regardless of whether the licensee knows that the program could reasonably be construed in this way. The Explanatory Statement does not indicate why the element of the licensee’s knowledge has not been included in sections 6 and 7.
 Notwithstanding sections 6 and 7, section 9 permits a licensee to broadcast a program that “merely gives information about, or promotes the beliefs or opinions of, a terrorist organisation”. If section 9 is intended to operate as a defence against an apparent breach of sections 6 or 7 it is not clear whether the licensee bears the burden of establishing that the program merely gives information or promotes certain beliefs.

The Minister has responded to the Committee advising that the omission of the element of the licensee’s knowledge in sections 6 and 7 is intentional to ensure licensees vet or view programs making an informed assessment about them before they are broadcast. Section 9 is not a defence against breaches of sections 6 or 7 but is an exemption for licensees providing broadcasts that are deemed merely informative. The Committee has written to the Minister seeking further clarification about the relationship between sections 6, 7 and 9.

Determination of Patient Contribution HIB 12/2006
These Determinations specify the amount of patient contribution in respect of recognised hospitals in five States and private hospitals in all States and Territories.

Section 17 of the Legislative Instruments Act 2003 directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken particularly where a proposed instrument is likely to have an effect on business. Section 18 of the Act provides that in some circumstances consultation may be unnecessary or inappropriate. The definition of ‘explanatory statement’ in section 4 of the Act requires an explanatory statement to describe the nature of any consultation that has been carried out or, if there has been no consultation, to explain why none was undertaken. The Explanatory Statements that accompany these Determinations make no reference to consultation. The Committee has written to the Minister seeking advice on whether consultation was undertaken and, if so, the nature of that consultation.

Senator WATSON (Tasmania) (9.31 am)—Following the receipt of satisfactory responses, on behalf of the Standing Committee on Regulations and Ordinances, I give notice that on the next day of sitting I shall withdraw seven notices of disallowance, the full terms of which have been circulated in the chamber and I now hand to the Clerk.

The list read as follows—

Nine sitting days after today

Civil Aviation Order 82.1 Amendment Order (No. 2) 2006 made under paragraph 28BA(1)(b) of the Civil Aviation Act 1988.

Instrument No. CASA 49/06 made under subregulations 42ZC(6) and 308(1) of the Civil Aviation Act 1988.
Twelve sitting days after today
Australian Prudential Regulation Authority Instrument Fixing Charges No. 1o f 2006 made under paragraph 51(1)(a) of the Australian Prudential Regulation Authority Act 1998.

I seek leave to incorporate in Hansard the committee’s correspondence concerning these instruments.

Leave granted.

The correspondence read as follows—

The Hon Warren Truss MP
Minister for Transport and Regional Services
Suite MG46
Parliament House


The Committee notes that this Airworthiness Directive was made on 9 December 2005 and became effective from that date. It is nevertheless numbered as 2/2006 TX. The Committee therefore seeks your advice about the reason for giving this instrument a 2006 identification number.

The Committee would appreciate your advice on the above matter as soon as possible, but before 21 March 2006, to enable it to finalise its consideration of this Directive. Correspondence should be directed to Senator John Watson, Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely

Brett Mason
Deputy Chairman

15 June 2006

Senator John Watson
Chairman

I refer to the letter from Senator Mason of 9 February 2006, requesting information on why Airworthiness Directive Part 39-105 AD/750XL/6 was issued with a 2006 number. I apologise for the delay in replying.

I have received the following advice from the Civil Aviation Safety Authority (CASA).

The number you have referred to is a reference to an issue of a subscription service produced by Airservices Australia that provides subscribers with all current Airworthiness Directives. The number is included as a convenient reference for industry and has no impact on the date of effectiveness of the Airworthiness Directive.

Airservices Australia provide an update for subscribers every four weeks and the 2/2006 number reflects the delay involved in making an Airworthiness Directive and its inclusion in the hard copy service.

While every Airworthiness Directive is published on the Federal Register of Legislative Instruments and the CASA website, CASA takes further steps to inform industry of Airworthiness Directives that come into effect immediately upon being made or with only short delays on the effective date of commencement.

CASA may either mail or fax the Airworthiness Directive to the relevant aircraft owners and operators. In these circumstances the letters DM (direct mail), or TX (Fax) are included in the ref-
erence number in the top right hand corner of an Airworthiness Directive.

The Airworthiness Directive you have referred to, AD/750XL/6, was made on 9 December 2005 to mandate compliance with a New Zealand Civil Aviation Authority airworthiness directive on the same subject. CASA faxed a copy of the directive to all relevant operators and published it on the CASA website that same day. The relevant release of the Airservices subscription service was February 2006. That is why the notation ‘2/2006 TX’ appears in the top right hand corner of the Directive.

Thank you for raising this matter with me.

Yours sincerely

Warren Truss
Minister for Transport and Regional Services

Civil Aviation Order 82.1 Amendment Order (No. 2) 2006
2 March 2006
The Hon Warren Truss MP
Minister for Transport and Regional Services
Suite MG46
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to the Civil Aviation Order 82.1 Amendment Order (No. 2) 2006 made under paragraph 28BA(1)(b) of the Civil Aviation Act 1988.

The Committee notes that this Order permits flight crew competency checks to be carried out by overseas flight simulator training organisations. According to the Explanatory Statement, it has been the practice of the Civil Aviation Safety Authority to permit one of the two annual competency checks to be carried out by overseas trainers, the second check being carried out in Australia. The stated purpose of this Order is to put this administrative practice onto a more certain legal footing. It is not clear, however, whether it is intended by this Order that both of the annual competency checks may now be carried out by overseas trainers.

The Committee would appreciate your advice on the above matter as soon as possible, but before 24 March 2006, to enable it to finalise its consideration of this Order. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely

John Watson
Chairman
15 June 2006

Senator John Watson
Chairman
Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2611

Dear Senator Watson

Thank you for your letter of 2 March 2006, requesting clarification on Civil Aviation Order (CAO) 82.1 Amendment Order (No.2) 2006 made under paragraph 28BA(1)(b) of the Civil Aviation Act 1988. I apologise for the delay in responding.

The Civil Aviation Safety Authority (CASA) has advised that CAO 82.1 imposes training and checking obligations as conditions on the operators’ certificates of aerial work operators. Training and checking obligations are carried out by training and checking organisations.

Prior to the amendment there was some doubt whether these arrangements could extend to overseas flight simulator organisations capable of providing flight crew competency checks for certain turbine and jet aircraft for which there is no simulator equipment in Australia. This was because paragraphs 3.3 and 3.4 of Appendix 2 of the Order mention the use of flight simulators, leaving it unclear whether overseas simulators may be used at all, or if usable, may only be used when
part of the operator’s (or a second operator’s) compliant training and checking organisation.

To resolve this doubt, Civil Aviation Order (CAO) 82.1 Amendment Order (No.2) 2006 was made and introduced subclauses 1.2 and 3.4A into Appendix 2. A copy of the Amendment Order and latest compilation of Civil Aviation Order 82.1 are attached for your information. [not incorporated]

The amendments set out the conditions for use of an overseas flight simulator training organisation. The amendment also provides in effect that if a trainer is used by an operator’s training and checking organisation in accordance with these conditions, the trainer will be taken to have met the compliance requirements of paragraph 1.1 of Appendix 2.

Each operator may, therefore, use an overseas trainer for all or part of its flight crew competency checking requirements and both of the annual competency checks could be carried out by the overseas trainer. However, renewal of an instrument rating, required every 12 months and usually included as part of the appropriate 6-monthly competency checks, this will be conducted with an officer in Australia. Since, for relevant aircraft, there is no flight simulator equipment in Australia, this competency check would be conducted in the actual aircraft flying in Australia.

Thank you for raising this matter with me.

Yours sincerely

Warren Truss
Minister for Transport and Regional Services

Dear Minister

I refer to the Instrument No. CASA 49/06 made under subregulations 42ZC(6) and 308(1) of the Civil Aviation Regulations 1988. This instrument revokes a previous instrument (CASA 579/05) dealing with the supervision requirements for aircraft polishers.

The Explanatory Statement to this present instrument states that the revocation is necessary because the scope of the previous instrument has been misinterpreted, leading to possible concerns for aircraft safety. The Committee would appreciate your advice about the nature of this misinterpretation and its effect on aircraft safety to assist the Committee in its consideration of any future instrument that might be made in substitution for the revoked instrument.

The Committee would appreciate your advice on the above matter as soon as possible, but before 24 March 2006, to enable it to finalise its consideration of this Instrument. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely

John Watson
Chairman
15 June 2006

Senator John Watson
Chairman
Standing Committee on Regulations and Ordinances
Room SG49
Parliament House
Canberra.

Dear Senator Watson

Thank you for your letter of 2 March 2006 (ref: 32/2006), requesting advice on the misinterpretation of Instrument No. CASA 579/05 and the revocation of that Instrument by Instrument No. CASA 49/06 made under subregulations 42ZC(6) and 308(1) of the Civil Aviation Regulations 1988. I apologise for the delay in responding.

The Civil Aviation Safety Authority (CASA) has provided the following advice.
Prior to revocation, Instrument No. CASA 579/05 provided for supervision of aircraft maintenance by holders of Airworthiness Authorities endorsed for such maintenance or by licenced aircraft maintenance engineers (LAMEs). With respect to aircraft polishing, the intent of the Instrument was to require appropriate supervision only where the polishing would constitute maintenance work. There was no intention to require all aircraft polishing be conducted under the supervision of an Airworthiness Authority or a LAME.

Feedback on the Instrument was that it was complex and some industry participants were interpreting the Instrument as requiring that all aircraft polishing be conducted under the supervision of an Airworthiness Authority or a LAME. Compliance with the Instrument based on this broad interpretation would be very costly and may lead to maintenance work not being done or being done inappropriately.

CASA revoked Instrument No. 579/05 with Instrument No. 49/06 to avoid the broad interpretation of all aircraft polishing qualifying as maintenance work. A copy of the revocation Instrument No. 49/06 is enclosed for your information and extracts of relevant legislation are also set out in Attachment A for ease of reference.

CASA is currently drafting an advisory bulletin to assist those responsible for the maintenance of aircraft to decide when aircraft polishing must be conducted under supervision.

Thank you for raising this matter with me.

Yours sincerely

Warren Truss
Minister for Transport and Regional Services

ATTACHMENT A

Relevant Legislation

Civil Aviation Act 1988

Section 3 of the Civil Aviation Act 1988 defines ‘maintenance’ as ‘any task required to ensure, or that could affect, the continuing airworthiness of an aircraft or aeronautical product, including any one or combination of overhaul, repair, inspection, replacement of an aeronautical product, modification or defect rectification’.

Civil Aviation Regulations 1988

The relevant regulation is CAR 42ZC and it provides as follows:

(3) Subject to subregulation (5), a person may carry out maintenance on a class A aircraft in Australian territory if

(a) the person:

(i) holds an aircraft maintenance engineer licence, an airworthiness authority or an aircraft welding authority covering the maintenance; and

(ii) either:

(A) holds a certificate of approval covering the maintenance; or

(B) is employed by, or working under an arrangement with, a person who holds a certificate of approval covering the maintenance; or

(b) the following requirements are satisfied:

(i) the person is employed by, or working under an arrangement with, a person who holds a certificate of approval covering the maintenance; and

(ii) the maintenance is carried out under the supervision of a person who holds an aircraft maintenance engineer licence covering the maintenance and who either:

(A) holds a certificate of approval covering the maintenance; or

(B) is employed by, or working under an arrangement with, a person who holds a certificate of approval covering the maintenance;

(The provisions for class B aircraft are similar.)
Australian Prudential Regulation Authority
Instrument Fixing Charges No. 1 of 2006

30 March 2006
The Hon Peter Dutton MP
Minister for Revenue and Assistant Treasurer
Suite M1.22
Parliament House
CANBERRA ACT 2600
Dear Minister
I refer to the following instruments made under
the Australian Prudential Regulation Authority
Australian Prudential Regulation Authority
Instrument Fixing Charges No. 1 of 2006
The Committee raises the following matters with
regard to this Instrument.
First, the instrument is dated 10 February 2005. It
pursues to fix charges payable on a voluntary
basis by those general insurers who contribute
data to and receive information from the National
Claims and Policies Database during each of the
2004-5 and 2005-6 financial years. It is not clear
whether the date of signing of this instrument
contains a typographical error (in that it should
refer to 10 February 2006), or whether there has
been a 12 month delay in registering the instru-
ment. The Committee would appreciate clarifica-
tion on the date of the instrument and, if it is cor-
rect, an explanation for the delay in registering it.
Secondly, the instrument specifies charges for a
period of time before it was made (whether that
be February 2005 or 2006). Notwithstanding the
voluntary basis of the charge, the Committee
would appreciate your advice on whether any
legal advice was obtained regarding the retrospec-
tive imposition of those charges.
Thirdly, it is not clear in which sense the charge is
voluntary. Clauses 4 and 5 of the Schedule to the
instrument state that the charge is to be paid by an
insurer within 28 days following receipt of a re-
quest and invoice from APRA. The Committee
therefore seeks clarification on the voluntary na-
ture of the charge.
Finally, the instrument contains three different
definitions of the term ‘NCPD insurer’. One is
found in the general interpretation section of the
instrument. The second is found in clause 7 of the
Schedule. The second definition varies from the
first by adding the words ‘or Lloyd’s underwriter’
and ‘or reportable facility business’. The third
definition is found in the Annexure A. The third
definition varies from the second by referring to 1
January 2003, instead of 1 January 2006, the lat-
ter date being used in the first two definitions.
The Committee would appreciate your advice on
whether these variations are intended and, if so,
the reasons for the differences.
The Committee would appreciate your advice on
the above matters as soon as possible, but before
5 May 2006, to enable it to finalise its considera-
tion of these instruments. Correspondence should
be directed to the Chairman, Senate Standing
Committee on Regulations and Ordinances,
Room SG49, Parliament House, Canberra.
Yours sincerely
John Watson
Chairman

Chairman

Received 20 June 2006
Senator John Watson
Chairman
Senate Standing Committee on Regulations and
Ordinances
Parliament House
CANBERRA ACT 2600
Dear Senator Watson
Thank you for your letter dated 30 March 2006
regarding Australian Prudential Regulation Au-
thority Instrument Fixing Charges No. 1 of 2006
and Australian Prudential Regulation Authority
(Confidentiality) Determination No. 3 of 2006
(Determination No. 3 of 2006). I apologise for
the delay in replying and will deal with each Issue
in turn.
Australian Prudential Regulation Authority
Instrument Fixing Charges No. 1 of 2006
While the issues you have raised in relation to
this instrument are valid, I would like to clarify
that the instrument fixes a charge for the 2004-05
and 2005-06 financial years only.
In subsequent financial years, as a result of an
amendment to the General Insurance Supervisory
Levy Imposition Act 1998, the costs associated
with the National Claims and Policies Database (NCPD) will be recovered via a special levy component to be imposed on a class of general insurers. That is those insurers which contribute to, and thereby can benefit from, the NCPD. The General Insurance Supervisory Levy Imposition Act 1998 was passed by the Senate on 11 May 2006.

APRA will fix the special levy component for the 2006-07 financial year by way of the annual supervisory levy imposition determination made under subsection 8(3) of the General Insurance Supervisory Levy Imposition Act 1998.

In relation to your request for clarification on the voluntary nature of the charge in the existing instrument, it is noted that clause 6 expressly states that payment of the charge is voluntary. Clauses 4 and 5 of the Schedule are therefore to be read subject to clause 6. Payment was made voluntary following consultation by APRA with industry representative bodies.

I am informed that as a result of a typographical error, the instrument was dated 10 February 2005. The date of the instrument should in fact be 10 February 2006, being the date on which it was signed. The fact that the incorrect date was inserted does not impact the legal validity of the document, however, I am advised that APRA will be exploring with the Office of Legislative Drafting any avenues to correct the record.

I am advised by APRA that legal issues, including retrospectivity, were considered in the process of drafting the instrument. As the charges are voluntary, the view was taken that the instrument did not affect the rights of relevant general insurers so as to disadvantage them, nor did it impose liabilities on general insurers. Consequently, I am advised that it was considered that the instrument would not attract the operation of subsection 12(2) of the Legislative Instruments Act 2003 (the Legislative Instruments Act).

You have rightly pointed out that the instrument contains three different definitions of the term ‘NCPD insurer’. The difference between the definition in the general interpretation section and clause 7 of the Schedule was unintentional. The definition in the general interpretation section was intended to make clear the meaning of ‘NCPD’ and ‘NCPD insurer’ in the heading of the instrument. The definition in clause 7 of the Schedule contains the correct definition. I am advised that it is APRA’s view that this definition prevails over the definition in the general interpretation section.

The reference to a ‘reporting period that ended before 1 July 2006’ in the first two definitions reflects and emphasises the fact that the instrument only fixes charges in respect of the 2004-05 and 2005-06 financial years. As the Conditions of Use will have effect beyond 1 July 2006, the first two definitions are inappropriate. The reference to 1 January 2003 in the definition in the Conditions of Use is consistent with the definitions of ‘reportable policy’, ‘reportable claim’ and ‘reportable facility’ in the reporting standards.

I trust this information will be of assistance to the Committee.

Yours sincerely

Peter Dutton
Minister for Revenue and Assistant Treasurer

Income Tax (Effective Life of Depreciating Assets) Amendment Determination 2006 (No. 1)

30 March 2006

The Hon Peter Dutton MP
Minister for Revenue and Assistant Treasurer
Suite M1.22
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to the Income Tax (Effective Life of Depreciating Assets) Amendment Determination 2006 (No. 1) made under subsection 40-100(1) of the Income Tax Assessment Act 1997. This instrument amends the principal Determination concerning the effective life, for tax treatment purposes, of copyright in a feature film.

This instrument was made on 14 February 2006 and is expressed to commence retrospectively on 1 July 2004. The Explanatory Statement does not contain an assurance, in terms of subsection 12(2)
of the Legislative Instruments Act 2003, that this retrospective operation does not adversely affect the rights or liabilities of any person other than the Commonwealth. The Committee therefore seeks an assurance that no person has been adversely affected. The Committee also requests that in future such an assurance be supplied in the Explanatory Statement.

The Committee would appreciate your advice on the above matter as soon as possible, but before 5 May 2006, to enable it to finalise its consideration of this Determination. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely
John Watson
Chairman

Dear Senator Watson

Thank you for your letter of 30 March 2006 originally directed to the Hon Peter Dutton MP, Minister for Revenue and Assistant Treasurer concerning the Income Tax (Effective life of Depreciating Assets) Amendment Determination 2006 (No1). I apologise for the delay in responding.

The Commissioner of Taxation made a determination of the effective life of copyright in a feature film (not including a licence relating to the copyright in a feature film) to be five years as a result of Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Act 2005, which was to apply retrospectively on and from 1 July 2004. Prior to this Act the effective life of copyright in a feature film (not including a licence relating to the copyright in a feature film) was determined by a statutory life of the shorter life of either 25 years or the period the copyright right ended.

Consultation was conducted within the film industry and as a result of this an effective life of five years was determined on which no adverse comments were received.

In view of this we can give an assurance that we are not aware of any person’s rights or liabilities that may have been adversely affected by this determination.

We will provide similar assurances in Explanatory Statements for all future legislative instruments that are to be applied retrospectively in accordance with subsection 12(2) of the Legislative Instruments Act 2003.

Yours Sincerely
Bruce Quigley
First Assistant Commissioner
Office of the Chief Tax Counsel

Insurance (Prudential Standard) Determination No. 2 of 2006

Insurance (Prudential Standard) Determination No. 3 of 2006

2 March 2006

The Hon Peter Dutton MP
Minister for Revenue and Assistant Treasurer
Suite M1.22
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to the following Determinations made under the Insurance Act 1973.

Insurance (Prudential Standard) Determination No. 2 of 2006

Clause 4 of this instrument permits certain requirements to be complied with on an insurance group basis, provided that the Australian Prudential Regulation Authority (APRA) has been notified and has agreed. The clause does not specify that this notification, or APRA’s agreement should be in writing. The Committee suggests that it would be avoid possible disagreement between parties if written notification and response was required.

Similar comments apply to clauses 19 and 20 of this instrument.
Insurance (Prudential Standard) Determination No. 3 of 2006

Paragraph 14(b) of this instrument exempts an insurer from the requirement to appoint an actuary if the gross insurance liabilities of the insurer do not include a material amount in respect of long-tail business. The meaning of the term ‘a material amount’ is uncertain and appears to provide scope for disagreement between an insurer and the Australian Prudential Regulation Authority. The Committee seeks your advice about whether a more certain specification of the criterion for the application of this exemption should be provided.

Similarly, clause 35 states that an approved auditor or actuary must not notify an insurer of certain matters where there is “a situation of mistrust” between the auditor or actuary and the board or senior manager of the insurer. The scope of the expression ‘a situation of mistrust’ is uncertain, and may cause difficulties for auditors or actuaries. The Committee seeks your advice about whether a more certain specification of the criterion for the application of this requirement should be provided.

The Committee would appreciate your advice on the above matters as soon as possible, but before 24 March 2006, to enable it to finalise its consideration of these Determinations. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely
John Watson
Chairman
11 April 2006

I refer to your letter of 2 March 2006 regarding Insurance (Prudential Standard) Determination Nos. 2 and 3 of 2006.

Insurance (Prudential Standard) Determination No. 2 of 2006

The Committee suggests that written notification and response be required for clauses 4, 19 and 20 of this instrument. I agree that it is important that information be communicated between insurers and APRA in a timely fashion. I support APRA’s intention to leave open the method of notification by the insurer. Communication by the insurer may be through telephone, e-mail or some other efficient mode of communication.

In practice, APRA will, on its part, always confirm and formalise any telephone or e-mail communication with a letter back to the insurer.

Insurance (Prudential Standard) Determination No. 3 of 2006

The Committee seeks advice on the use of the term ‘a material amount’ in paragraph 14(b) of this instrument. As a general point, the matter of defining materiality throughout APRA’s standards has been discussed at some length with the industry and no unanimous, simple definition has been agreed.

For this reason, I believe the Board and senior management of an insurer are best placed to form a view of materiality across the entity based on the insurer’s particular circumstances. This is especially relevant in the case of whether or not the insurer’s gross insurance liabilities do or do not include a material amount in respect of long-tail business.

As a safeguard, paragraph 14(b) goes on to provide a mechanism for APRA to notify the insurer where APRA considers the insurer to have a material amount of long-tail business based on documentary evidence submitted by the insurer to APRA.

In forming its own view on materiality, APRA considers industry best practice and an assessment of an insurer against its peers as part of APRA’s supervisory review. Where APRA observes divergence by an insurer, APRA will consider notifying the insurer under paragraph 14(b).
In addition, the Committee also seeks advice on the use of the term ‘a situation of mistrust’ in clause 35 of this instrument.

The purpose of this clause is to recognise that information reported to APRA, at the same time, would normally be reported to the insurer (i.e. Board, approved actuary or senior management). The reporting party, if they feel ‘a situation of mistrust’ exists should not feel compelled to report information to the insurer. This is so that an auditor or actuary would feel free to approach APRA directly where they honestly believe that, for some reason, the Board and senior management may attempt to impede the flow of information which should be brought to APRA’s attention.

I recognise that there is an element of subjectivity associated with the term ‘situation of mistrust’. I believe, however, that a more emphatic definition would diminish the intended effect of the clause and may serve to prevent some people from coming forward. ‘Clause 35’ incidentally dovetails with the whistleblower provisions of the proposed Governance standard.

I trust this information will be of assistance to you.

Yours sincerely

Peter Dutton
Minister for Revenue and Assistant Treasurer
11 May 2006

The Hon Peter Dutton MP
Minister for Revenue and Assistant Treasurer
Suite M1.22
Parliament House
CANBERRA ACT 2600

Dear Minister

Thank you for your letter of 11 April 2006 responding to the Committee’s concerns with Insurance (Prudential Standard) Determinations Nos. 2 and 3 of 2006. Your advice has answered most of the Committee’s concerns. There are, however, two matters on which the Committee would appreciate further advice.

First, you advise that in practice the Australian Prudential Regulation Authority confirms and formalises any telephone or e-mail communication with a letter back to the insurer. If this is the normal practice of APRA, why should this not be formalised in the Determination?

Secondly, you argue that the term ‘situation of mistrust’ should not be made more precise because that may prevent some people from coming forward. The Committee suggests that the same result may occur where a term is too vague or imprecise. People may not come forward because they are not aware of what is required of them.

The Committee would appreciate your advice on the above matters as soon as possible, but before 9 June 2006, to enable it to finalise its consideration of these Determinations. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely

John Watson
Chairman
Received 20 June 2006
Senator John Watson
Chairman Senate Standing Committee on Regulations and Ordinances
Parliament House
Canberra ACT 2600

Dear Senator Watson


The Committee queries why APRA’s mode of communication with insurers is not formalised in Insurance (Prudential Standard) Determination No. 2 of 2006. The practice adopted by APRA in its communications with regulated entities has not been formalised, to the detail you suggest, in any of its prudential standards. This includes the standards for authorised deposit taking Institutions, general insurers or life insurers and within the Superannuation Industry (Supervision) (SIS) regulations.

This is because APRA views this as a matter of internal administration and practice. This approach has not compromised any dealings APRA has had with regulated entities arising from the
application of prudential standards. I do not, therefore, currently see a need to provide for this specifically in a prudential standard.

If APRA perceives a need for this in the future, APRA would for consistency, consider this in the more general context of all prudential standards across all the regulated industries rather than just for the purposes of Insurance (Prudential Standard) Determination No. 2 of 2006.

The Committee suggests that, if the term ‘situation of mistrust’ used in Insurance (Prudential Standard) Determination No. 3 of 2006 is not made more precise, people may not come forward because they are not aware of what is required of them. I agree with APRA’s view is that the ordinary meaning of the term is wide enough to encourage an auditor or actuary to approach APRA directly.

The term was also deliberately chosen because, as stated in my earlier advice, the element of subjectivity actually favours auditors or actuaries coming forward where they are in doubt. I believe that making the term more precise may unnecessarily confine the circumstances under which an auditor or actuary may choose to come forward and be less helpful overall.

Furthermore, APRA is confident that the professional bodies for auditors and actuaries would reinforce their members’ duty to alert the regulator where they honestly believe that the board and senior management of an insurer may attempt to impede the flow of information to APRA where it is warranted.

I trust this information will assist the Committee.

Yours sincerely

Peter Dutton
Minister for Revenue and Assistant Treasurer

Senator O’Brien to move on the next day of sitting:

That the following matter be referred to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 9 October 2006:

The price of petrol in Australia, with particular reference to:

(a) the relationship between the landed price of crude oil, refining costs, the wholesale price and the retail price of petrol;
(b) regional differences in the retail price of petrol;
(c) variations in the retail price of petrol at particular times;
(d) the industry’s integrated structure; and
(e) any other related matters.

COMMITTEES
Selection of Bills Committee
Report

Senator FERRIS (South Australia) (9.33 am)—I present the 6th report of 2006 of the Selection of Bills Committee.

Ordered that the report be adopted.

Senator FERRIS—I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 6 OF 2006

(1) The committee met in private session on Wednesday, 21 June 2006 at 4.18 pm.

(2) The committee resolved to recommend—That—

(a) the provisions of the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 1 August 2006 (see appendices 1 to 3 for statements of reasons for referral);

(b) the provisions of the Intellectual Property Laws Amendment Bill 2006 be referred immediately to the Economics Legislation Committee for inquiry and report by 9 August 2006 (see appendix 4 for a statement of reasons for referral);

(c) the Crimes Act Amendment (Forensic Procedures) Bill (No. 1) 2006 be referred immediately to the Legal and
Constitutional Legislation Committee for inquiry and report by 1 August 2006 (see appendices 5 and 6 for statements of reasons for referral);

(d) the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006 be referred immediately to the Legal and Constitutional Legislation Committee for inquiry and report by 1 August 2006 (see appendix 7 for a statement of reasons for referral);

(e) the Financial Transaction Reports Amendment Bill 2006 be referred immediately to the Legal and Constitutional Legislation Committee for inquiry and report by 1 August 2006 (see appendix 8 for a statement of reasons for referral);

(f) upon their introduction into the House of Representatives, the provisions of the Independent Contractors Bill 2006 and Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006 be referred immediately to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 25 August 2006 (see appendix 9 for a statement of reasons for referral); and

(g) upon its introduction into the House of Representatives, the provisions of the Indigenous Education (Targeted Assistance) Amendment Bill 2006 be referred immediately to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 1 August 2006 (see appendix 10 for a statement of reasons for referral).

(3) The committee resolved to recommend—

The following bills not be referred to committees:

- Agriculture, Fisheries and Forestry Legislation Amendment (Export Control and Quarantine) Bill 2006
- Education Services for Overseas Students Legislation Amendment (2006 Measures No. 1) Bill 2006
- Migration Legislation Amendment (Appropriate Access to Detention Centres) Bill 2006
- Migration Legislation Amendment (Migration Zone Excision Repeal) Bill 2006
- Migration Legislation Amendment (Migration Zone Excision Repeal) (Consequential Provisions) Bill 2006
- National Health Amendment (Immunisation) Bill 2006
- Public Works Committee Amendment Bill 2006
- Same-Sex Marriages Bill 2006
- Trade Marks Amendment Bill 2006.

The committee recommends accordingly.

(4) The committee deferred consideration of the following bills to the next meeting:

Bills deferred from meeting of 10 May 2006
- Protecting Children from Junk Food Advertising Bill 2006.

Bills deferred from meeting of 21 June 2006
- Australian Capital Territory (Self-Government) Amendment (Disallowance Power of the Commonwealth) Bill 2006
- Migration Amendment (Visa Integrity) Bill 2006.

(3) The committee resolved to recommend—

The following bills not be referred to committees:

- Agriculture, Fisheries and Forestry Legislation Amendment (Export Control and Quarantine) Bill 2006
- Education Services for Overseas Students Legislation Amendment (2006 Measures No. 1) Bill 2006
- Migration Legislation Amendment (Appropriate Access to Detention Centres) Bill 2006
- Migration Legislation Amendment (Migration Zone Excision Repeal) Bill 2006
- Migration Legislation Amendment (Migration Zone Excision Repeal) (Consequential Provisions) Bill 2006
- National Health Amendment (Immunisation) Bill 2006
- Public Works Committee Amendment Bill 2006
- Same-Sex Marriages Bill 2006
- Trade Marks Amendment Bill 2006.

The committee recommends accordingly.

(4) The committee deferred consideration of the following bills to the next meeting:

Bills deferred from meeting of 10 May 2006
- Protecting Children from Junk Food Advertising Bill 2006.

Bills deferred from meeting of 21 June 2006
- Australian Capital Territory (Self-Government) Amendment (Disallowance Power of the Commonwealth) Bill 2006
- Migration Amendment (Visa Integrity) Bill 2006.

(3) The committee resolved to recommend—

The following bills not be referred to committees:

- Agriculture, Fisheries and Forestry Legislation Amendment (Export Control and Quarantine) Bill 2006
- Education Services for Overseas Students Legislation Amendment (2006 Measures No. 1) Bill 2006
- Migration Legislation Amendment (Appropriate Access to Detention Centres) Bill 2006
- Migration Legislation Amendment (Migration Zone Excision Repeal) Bill 2006
- Migration Legislation Amendment (Migration Zone Excision Repeal) (Consequential Provisions) Bill 2006
- National Health Amendment (Immunisation) Bill 2006
- Public Works Committee Amendment Bill 2006
- Same-Sex Marriages Bill 2006
- Trade Marks Amendment Bill 2006.

The committee recommends accordingly.

(4) The committee deferred consideration of the following bills to the next meeting:

Bills deferred from meeting of 10 May 2006
- Protecting Children from Junk Food Advertising Bill 2006.

Bills deferred from meeting of 21 June 2006
- Australian Capital Territory (Self-Government) Amendment (Disallowance Power of the Commonwealth) Bill 2006
- Migration Amendment (Visa Integrity) Bill 2006.

(3) The committee resolved to recommend—

The following bills not be referred to committees:

- Agriculture, Fisheries and Forestry Legislation Amendment (Export Control and Quarantine) Bill 2006
- Education Services for Overseas Students Legislation Amendment (2006 Measures No. 1) Bill 2006
- Migration Legislation Amendment (Appropriate Access to Detention Centres) Bill 2006
- Migration Legislation Amendment (Migration Zone Excision Repeal) Bill 2006
- Migration Legislation Amendment (Migration Zone Excision Repeal) (Consequential Provisions) Bill 2006
- National Health Amendment (Immunisation) Bill 2006
- Public Works Committee Amendment Bill 2006
- Same-Sex Marriages Bill 2006
- Trade Marks Amendment Bill 2006.

The committee recommends accordingly.

(4) The committee deferred consideration of the following bills to the next meeting:

Bills deferred from meeting of 10 May 2006
- Protecting Children from Junk Food Advertising Bill 2006.

Bills deferred from meeting of 21 June 2006
- Australian Capital Territory (Self-Government) Amendment (Disallowance Power of the Commonwealth) Bill 2006
- Migration Amendment (Visa Integrity) Bill 2006.

(3) The committee resolved to recommend—

The following bills not be referred to committees:

- Agriculture, Fisheries and Forestry Legislation Amendment (Export Control and Quarantine) Bill 2006
- Education Services for Overseas Students Legislation Amendment (2006 Measures No. 1) Bill 2006
- Migration Legislation Amendment (Appropriate Access to Detention Centres) Bill 2006
- Migration Legislation Amendment (Migration Zone Excision Repeal) Bill 2006
- Migration Legislation Amendment (Migration Zone Excision Repeal) (Consequential Provisions) Bill 2006
- National Health Amendment (Immunisation) Bill 2006
- Public Works Committee Amendment Bill 2006
- Same-Sex Marriages Bill 2006
- Trade Marks Amendment Bill 2006.

The committee recommends accordingly.

(4) The committee deferred consideration of the following bills to the next meeting:

Bills deferred from meeting of 10 May 2006
- Protecting Children from Junk Food Advertising Bill 2006.

Bills deferred from meeting of 21 June 2006
- Australian Capital Territory (Self-Government) Amendment (Disallowance Power of the Commonwealth) Bill 2006
- Migration Amendment (Visa Integrity) Bill 2006.

(3) The committee resolved to recommend—

The following bills not be referred to committees:

- Agriculture, Fisheries and Forestry Legislation Amendment (Export Control and Quarantine) Bill 2006
- Education Services for Overseas Students Legislation Amendment (2006 Measures No. 1) Bill 2006
- Migration Legislation Amendment (Appropriate Access to Detention Centres) Bill 2006
- Migration Legislation Amendment (Migration Zone Excision Repeal) Bill 2006
- Migration Legislation Amendment (Migration Zone Excision Repeal) (Consequential Provisions) Bill 2006
- National Health Amendment (Immunisation) Bill 2006
- Public Works Committee Amendment Bill 2006
- Same-Sex Marriages Bill 2006
- Trade Marks Amendment Bill 2006.
• Examine the operation of the provisions of the bill and their potential consequences.

Possible submissions or evidence from:
Central Land Council
Northern Land Council
Twi Land Council
Registrar of Aboriginal Corporations
Office of Indigenous Policy Coordination
ANTaR
Centre for Aboriginal Economic Policy Research
Oxfam Australia
Australian Institute of Aboriginal and Torres Strait Islander Studies

Committee to which bill is referred:
Community Affairs Legislation Committee

Possible hearing date:
Possible reporting date(s): 9 October 2006

Appendix 2
Proposal to refer a bill to a committee
Name of bill(s):
Aboriginal Land Rights (Northern Territory) Amendment Bill 2006

Reasons for referral/principal issues for consideration
To seek community and expert opinion on provisions that will significantly impact on the rights of traditional owners and the functions of land councils.
To examine the operation of the provisions of the bill and their potential consequences.

Possible submissions or evidence from:
NT land councils, NT government and other submissions to be advised.

Committee to which bill is referred:
Community Affairs Legislation Committee

Possible hearing date:
Possible reporting date(s): 16 August 2006

Appendix 3
Proposal to refer a bill to a committee
Name of bill(s):
Aboriginal Land Rights (Northern Territory) Amendment Bill 2006

Reasons for referral/principal issues for consideration
To seek community and expert opinion on provisions that will significantly impact on the rights of traditional owners and the functions of land councils.
To examine the operation of the provisions of the bill and their potential consequences.

Possible submissions or evidence from:
Committee to which bill is referred:
Community Affairs Legislation Committee

Possible hearing date:
Possible reporting date(s): 8 August 2006

Appendix 4
Proposal to refer a bill to a committee
Name of bill(s):
Aboriginal Land Rights (Northern Territory) Amendment Bill 2006

Reasons for referral/principal issues for consideration
Verify accuracy of implementing legislation with respect to the stated objectives of the explanatory memorandum.

Possible submissions or evidence from:
Committee to which bill is referred:
Legal and Constitutional Legislation Committee

Possible hearing date:
Possible reporting date(s): 15 August 2006

Appendix 5
Proposal to refer a bill to a committee
Name of bill(s):
Crimes Act Amendment (Forensic Procedures) Bill (No. 1) 2006

Reasons for referral/principal issues for consideration
Examination of the bill as necessary

Possible submissions or evidence from:
Committee to which bill is referred:
Legal and Constitutional Legislation Committee
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<th>Appendix</th>
<th>Proposal to refer a bill to a committee</th>
<th>Name of bill(s):</th>
<th>Possible hearing date:</th>
<th>Possible reporting date(s):</th>
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<td>Ensure that cross-jurisdictional DNA matching can occur with appropriate safeguards</td>
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<td>Possible submissions or evidence from:</td>
<td>Various state police forces, AFP, CRIMTRAC, civil liberties groups, Law Council of Australia.</td>
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<td>Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006</td>
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<td>Possible submissions or evidence from:</td>
<td>CBFCA, AFIF, Shipping Australia, Patrick, P&amp;O, ports authorities, states, importers and exporters, Law Council of Australia.</td>
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<td>Legal and Constitutional Legislation Committee</td>
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<td>Financial industry sector, civil liberties groups, Law Council of Australia.</td>
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<td>Proposal to refer a bill to a committee</td>
<td>Independent Contractors Bill 2006 and Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006</td>
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<td>Proposal to refer a bill to a committee</td>
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<td>Reasons for referral/principal issues for consideration</td>
<td>Examination of the bill as necessary</td>
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CHAMBER
Possible submissions or evidence from:
Committee to which bill is referred:
Employment, Workplace Relations, and Education Legislation Committee
Possible hearing date:
Possible reporting date(s): 1 August 2006

NOTICES
Postponement

The following item of business was postponed:

Business of the Senate notice of motion no. 2 standing in the name of Senator Crossin for today, proposing the reference of a matter to the Environment, Communications, Information Technology and the Arts References Committee, postponed till 9 August 2006.

LEAVE OF ABSENCE
Senator GEORGE CAMPBELL (New South Wales) (9.33 am)—by leave—I move:
That leave of absence be granted to Senator Carr for 22 June and 23 June 2006, on account of parliamentary business overseas.

Question agreed to.

NOTICES
Postponement

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.34 am)—by leave—I move:
That general business notice of motion no. 469 standing in his name for today, proposing the reference of a matter to the Joint Standing Committee on Treaties, be postponed till 9 August 2006.

Question agreed to.

BUSINESS
Consideration of Legislation

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.34 am)—I move:
That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:
- Law Enforcement Integrity Commissioner Bill 2006
- Law Enforcement Integrity Commissioner (Consequential Amendments) Bill 2006

Question agreed to.

MIGRATION LEGISLATION AMENDMENT (TEMPORARY PROTECTION VISAS REPEAL) BILL 2006

First Reading
Senator BARTLETT (Queensland) (9.36 am)—I move:
That the following bill be introduced:
A Bill for an Act to amend the Migration Regulations 1994 to remove the category of Temporary Protection Visas, and for related purposes.

Question agreed to.

Senator BARTLETT (Queensland) (9.36 am)—I move:
That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading
Senator BARTLETT (Queensland) (9.36 am)—I move:
That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—
This Private Senator’s Bill is one of a number of Migration Act Amendment Bills which I will table in the course of this parliamentary year. This bill seeks to eliminate the Temporary Protection Visa (TPV), which was introduced in November...
1999 via the Migration Amendment Regulations 1999 (No.12).

The Democrats opposed the introduction of this visa, which applies to all people assessed as refugees who initially arrived in Australia without a valid visa. When I moved in the Senate to disallow this new type of visa, I expressed abhorrence that a temporary visa policy for refugees that had been widely condemned by all political parties when it was proposed by the One Nation party just a couple of years earlier, was now supported in the Parliament by not only the Coalition but the ALP as well.

The introduction of the TPV is an example of a policy deliberately designed to cause hardship and suffering. It restricts access to settlement assistance and other social services, thus making it harder for refugees to stabilize their lives and integrate effectively into the Australian community.

The TPV was also deliberately designed to prevent family reunion, creating a cruel and extremely stressful mechanism which forces families to stay separated, and created a perverse incentive for the spouse and children to also seek to enter Australia in an unauthorized way, as it was the only way the family could be re-united.

The TPV did nothing to reduce the number of asylum seekers coming to Australia. Indeed, the numbers increased over the following two years. Instead, the TPV was directly responsible for a massive increase in the proportion of women and children undertaking the dangerous journey to travel to Australia. This was most starkly demonstrated with the sinking of the SIEV-X on 19th October, 2001 which sank in international waters on its way to Australia, its departure having been facilitated by Indonesian police who forced many people onto the overcrowded boat. Of the 353 people who drowned in that tragedy, 146 were children, 142 were women and only 65 were men. Many of them had spouses already in Australia and this was the only avenue open to them.

The TPV permits the holder to remain in Australia for a period of thirty-six months. They can leave Australia, but have no re-entry right. The Federal Government also restricted temporary protection visa holders from applying for any other type of visa other than a permanent protection visa, which could not be issued (except with the permission of the Minister) until the expiry of the thirty-six month period.

In practice, it has created a four to five year period from the time when a refugee first arrives to when they are likely to be able to obtain permanent residency. The process saw refugees detained for prolonged periods before they were recognised to be ‘genuine’ refugees and released into the community with limited settlement and social service benefits and no right to family reunion. They were typically bussed to urban locations and left to fend for themselves, in stark contrast to the settlement services traditionally provided to refugees that enable prompt integration into the Australian community.

It must be taken into account that many refugees on TPVs are already traumatized by their earlier experiences and by their escape from oppressive regimes and the subsequent perilous journey to Australia. This has then been compounded by periods of mandatory detention. The granting of TPVs only serves to discourage and disable refugees from putting down roots and settling into the Australian community. The mental and emotional anguish that is placed on TPV holders that effectively live in limbo must not be underestimated.

I have met many refugees on TPVs and have never failed to be impressed by their resilience. To their credit; many have found employment, often in unskilled work, despite many of them being highly skilled. Others filled the vacuum in agricultural work or worked in meatworks, helping country towns stay viable doing jobs that other Australians could not be found to do.

For the professionals among them, re-accreditation for Australian registration is extremely difficult and the loss of status and self esteem follow. Humiliation adds to the rejection and alienation being experienced. For those on Special Benefit, unable to find work, life is one of poverty, insecurity and abject despair. Clinical depression is a growing characteristic of the TPV community and raises serious concerns about the long term implications of it.

The Democrats expressed grave concern at the time that a two class refugee system was established in Australia and that in effect the TPV penalises those who have been forced to flee human
rights abuses but entered Australia undocumented. It is a clear breach of the Refugee Convention.

When I moved in the Senate on 24th November, 1999 to disallow the Regulation introducing the TPV, I said it was an immoral and very dangerous precedent. The fears and concerns that I and others such as Senator Brian Harradine voiced on that day have been borne out in practice.

The TPV has done nothing to reduce asylum seekers arrivals, has cost the taxpayers millions of dollars in extra unnecessary re-processing of claims, has harmed Australia by reducing the ability of refugees to integrate into our communities, has separated and destroyed families, has led to more women and children being put in danger and has caused untold suffering to people who were already amongst the most vulnerable and damaged on our planet.

It is time for it to be abolished, and I call on the Senate and the Parliament to support this legislation and make it happen. I commend this bill to the Senate.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

PRIVACY (EXTENSION TO POLITICAL ACTS AND PRACTICES) AMENDMENT BILL 2006

First Reading

Senator STOTT DESPOJA (South Australia) (9.36 am)—I move:

That the following bill be introduced:

A Bill for an Act to amend the Privacy Act 1988 to remove the exemption provided by the Act for political acts and practices, and for related purposes.

Question agreed to.

Senator STOTT DESPOJA (South Australia) (9.36 am)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator STOTT DESPOJA (South Australia) (9.37 am)—I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

The aim of this Private Senator’s Bill, the Privacy (Extension to Political Acts and Practices) Amendment Bill 2006, is to remove an exemption in the Privacy Act 1988 for political acts and practices; “to ensure registered political parties are included in and subject to the Act and to prevent the uncontrolled and unauthorised use of personal information by registered political parties and their members”.

As it stands, politicians and political parties are exempt from the Privacy Act 1988, under section 7C, and, therefore, are not subject to the rules and regulations that the public and private sectors are.

Originally, the private sector was also exempt but, fortunately, the Government amended this after the Democrats held them to their 1996 election promise to extend privacy laws.

Politicians should be included in the rules that we expect the public and private sectors to abide by. We cannot lead and represent Australians when we do not adhere to the rules that we have made for them, as this merely plays into the notion that politicians cannot be trusted.

At present, the exemption of political acts and practices from the Privacy Act 1988 allows politicians and political parties to establish extensive databases of information regarding their constituents. These databases do not only include constituents’ names and addresses; they document their policy and voting preferences, party affiliation, political donations and ethnic identity, all of which are used for the gain of the political parties. This information can be collected through newspaper clippings or door knocking. It is also carefully documented when constituents make contact with their parliamentary representative and this is a major problem.
As I stated in the Democrat-initiated Senate inquiry into the Privacy Act 1988, “this blurs the line between Members of Parliament as holders of public office on the one hand, and as members of a political party on the other”, as constituents often have to disclose personal information, such as their welfare benefits, employment and associations with community groups, when liaising with their local representative. This information is provided to members of Parliament to enable them to better assist their constituent, not so that it can be placed on a database to further the interests of the political party. This is definitely an important flaw in the Privacy Act 1988.

Furthermore, once this information is supplied to a political party, through whatever means, constituents have no right to access it; no right to know exactly what the party knows about them, whether the information is correct or how it is going to be used.

This is particularly worrying, considering that these databases contain details about the political views of constituents, especially when political views can change but the databases cannot be changed in response. If these kinds of databases were held by any other kind of office, this breach of privacy would be deemed illegal, yet for political parties and their members, it is not.

We saw clear evidence of just how far-reaching this exemption is when one Senator exposed the name and medical details of a woman who had had a late term abortion to the media. This is of particular importance – people believe that their medical records are something that should be kept private, specifically because they are subject to doctor-patient confidentiality under state legislation. However, due to the exemption of political acts and practices in the Privacy Act 1988, the Federal Privacy Commissioner ruled that the Act had not been breached and the Senator could not be held accountable for his actions.

This is just one example of the limitations that the Privacy Commissioner faces under the existing Privacy Act. In the 2003/2004 financial year, there were three complaints closed by the Privacy Commissioner based on the fact that they were included under the exemption of political acts and practices. Many more phone calls and complaints had been received at the time of the Senate inquiry in 2005, however, the Privacy Commissioner again was unable to investigate these complaints, as the Office of the Federal Privacy Commissioner has no jurisdiction to do so under the Privacy Act 1988 given this exemption. In fact, the Australian Privacy Foundation has gone as far as to say that they believe the exemption is “unconscionable and hypocritical” due to the double standards that it creates.

My bill changes this. It will also bring the Privacy Act into line with current community beliefs. A 2004 survey commissioned by the Office of the Federal Privacy Commissioner found that 94% of people would consider a business that they did not know having access to their personal information an invasion of privacy and 93% believed that it would be an invasion of privacy for a business to use the information that they supplied to them for a specific purpose to be used for another purpose. Clearly, there is no difference between these actions and the collection and use of the information that politicians and political parties have on their databases.

Political parties and Members of Parliament in favour of the exemption will argue that the databases enable them to enhance freedom of political communication and the democratic process, but that is only to argue that diminishing someone’s privacy for the sake of the freedom of some is justifiable.

My point, together with the opinion given by the Victorian Privacy Commissioner, Paul Chadwick, is not that politicians and political parties should not have access to some information on their constituents, or even that they should not have a method of collection for it. Instead, the purpose of the bill is to bring transparency into this process and, for the first time, allow the public to have access to the information and correct it if necessary.

This is just one of many flaws in the Privacy Act 1988, which I will continue to try to amend. It is clear that with the passing of the Telecommunications (Interception) Amendment Bill 2006, which allows the conversations and emails of innocent people to be monitored, the recent anti-terror legislation, the lack of regulation of sensitive genetic information and now the proposed introduction of the Smartcard, which as yet has no privacy
mechanisms in place to protect citizens, the Privacy Act 1988 is not as far reaching as it should be to guard the personal information of the Australian people.

By removing the exemption of political acts and practices, this bill is a step in the right direction to extend the incomplete and out of date Privacy Act 1988, something that is very important to the Democrats. In a society which prides itself on upholding the notion of the individual and individual rights, we cannot allow a group of people to legally hold information about its citizens without their consent to its use.

I commend the bill to the Senate.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

MR CHARLES JAMES HAUGHEY

Senator STEPHENS (New South Wales) (9.37 am)—I move:

That the Senate—

(a) notes the death of the former Taoiseach of Ireland, Mr Charles Haughey, on 13 June 2006, having served three terms as Taoiseach between 1979 and 1992;

(b) acknowledges Mr Haughey’s significant contribution to the economic revival of the Republic of Ireland;

(c) recognises Mr Haughey’s commitment to the peace process and to positioning Ireland as an integral member of the European Community; and

(d) expresses the sympathies of the Australian people to the people of Ireland, the Irish diaspora and Mr Haughey’s family.

Question agreed to.

Senator STEPHENS—I seek leave to make a brief statement.

Leave granted.

Senator STEPHENS—Last night, I spoke in the adjournment debate about the former Taoiseach of Ireland, and in my speech I quoted a poem by Seamus Heaney, The Given Note. Time did not permit me to read the poem into Hansard. I seek leave to have it incorporated in Hansard.

Leave granted.

The poem read as follows—

On the most westerly Blasket
In a dry-stone hut
He got this air out of the night
Strange noises were heard
By others who followed, bits of a tune
Coming in on loud weather
Though nothing like melody.
He blamed their fingers and ear
As unpracticed, their fiddling easy.
For he had gone alone into the island
And brought back the whole thing.
[The house throbbed like his full violin.
So whether he calls it spirit music
Or not, I don’t care. He took it
Out of wind off mid-Atlantic.
Still he maintains, from nowhere].
It comes off the bow gravely,
Rephrases itself into the air.

STEM CELL RESEARCH

Senator STOTT DESPOJA (South Australia) (9.38 am)—I move:

That the Senate notes:

(a) that the Harvard Stem Cell Institute (HSCI) researchers at Harvard University – the world’s richest university – and the Children’s Hospital Boston have been given approval to begin experiments using somatic cell nuclear transfer to create disease-specific stem cell lines in order to develop treatments for diseases such as diabetes; and

(b) that the HSCI’s research will be privately funded because the Government of the United States of America does not allow funding for research on embryonic stem cells created after 2001.

Question agreed to.
COMMITTEES

Publications Committee
Report

Senator WATSON (Tasmania) (9.39 am)—I present the 13th report of the Standing Committee on Publications.

Ordered that the report be adopted.

BUDGET
Consideration by Legislation Committees
Additional Information

Senator FERRIS (South Australia) (9.39 am)—On behalf of the respective chairs, I present additional information received by the Economics, Finance and Public Administration, and Rural and Regional Affairs and Transport Legislation Committees relating to hearings on the 2005-06 additional estimates.

COMMITTEES
Legal and Constitutional Legislation Committee
Additional Information

Senator FERRIS (South Australia) (9.39 am)—On behalf of the chair of the Legal and Constitutional Legislation Committee, Senator Payne, who is in the chamber, I present additional information received by the committee on its inquiry into the provisions of the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006.

NATIONAL ANIMAL WELFARE BILL 2005
Report of Rural and Regional Affairs and Transport Legislation Committee

Senator FERRIS (South Australia) (9.40 am)—On behalf of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I present the report of the committee on the provisions of the National Animal Welfare Bill 2005 together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator BARTLETT (Queensland) (9.40 am)—by leave—I move:

That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES
Foreign Affairs, Defence and Trade Committee: Joint
Report

Senator FERGUSON (South Australia) (9.40 am)—I present the report of the Joint Standing Committee on Foreign Affairs, Defence and Trade entitled Australia’s relationship with the Republic of Korea and developments on the Korean peninsula. I move:

That the Senate take note of the report.

I seek leave to have my tabling statement incorporated in Hansard.

Leave granted.

The statement read as follows—

For over half a century Australia and the Republic of Korea have enjoyed an important and productive relationship. The RoK is the tenth largest economy in the world and the third largest in Asia. In 2005, the RoK was Australia’s third largest export market and fourth largest trading partner. Our trading relationship is complementary—Australia exports natural resources to the RoK and imports manufactured goods from the RoK.

This report reviews that trading relationship, but goes further to include issues such as cross-cultural understanding, and relations between Australian and Korean institutions, both government and non-government. The report also includes a commentary on issues concerning the Democratic People’s Republic of Korea because of their potential impact on regional trade and security.

The relationship between Australia and the RoK is strong and exists on many levels. While there appear to be no major impediments to the relationship, there are opportunities at the margins to enhance the relationship.
Government to government interactions play an important role in setting the agenda in any bilateral relationship. Reciprocal visits by Australian and RoK Government Ministers are frequent and inter-government cooperation and consultation exists at many levels. Australia and the RoK share a number of security interests in the Asia-Pacific region and the belief that cooperation in the areas of peacekeeping, consequence management, and defence industry cooperation are key focal points. The report recommends continued defence cooperation and further exploration of defence cooperation opportunities.

Trade is the mainstay in the Australia–RoK relationship. The report reviews trade between the two countries and the challenges facing the economic relationship. Organisations such as Austrade, and the Australia-Korea Business Council provide valuable assistance to Australian exporters. There is, however, the potential to expand the trade undertaken by the small business sector. To this end the Committee has recommended that greater support be provided to small exporters, by way of organisations such as the Overseas Korean Traders Association.

Mr President, free trade agreements are another way to increase trade. However, any FTA between Australia and the RoK should not be at the expense of Australian and Korean cultural industries. As well, agriculture issues should be resolved early in any negotiations.

The provision of educational services is an important sector in Australia’s economy. The RoK is the second most important source country for foreign students studying in Australia. This market can be developed further through improving the educational experience of visiting students. The Committee has recommended an Internet-based forum be established for Korean students returning from Australia to collect feedback on the performance of Australian educators.

Many students visiting Australia for study purposes are accompanied by a guardian from that country. This may affect the risks presented by those students when they are granted a student visa. The Committee has recommended that the Department of Immigration and Multicultural Affairs review the risks presents by such accompanied students and incorporate the result into the overall risk assessments for Korean students.

Cultural understanding enhances Australia’s relationship with the RoK and can be strengthened further. For example, Australian businesses can gain an understanding of Korean culture by engaging local representatives in the RoK. There are also opportunities to build greater cross-cultural understanding through sporting links and cultural exchanges.

The Australia-Korea Foundation (AKF) is a key body promoting the Australia-RoK relationship. The AKF promotes exchanges and institutional links in many areas and at all levels. The Committee recognises the valuable work of the AKF and has reviewed the expertise contributed by board members. This expertise covers the areas of AKF focus and the majority of board members have direct experience working in the RoK. Nevertheless, the Committee has recommended that board membership include more members with an intimate knowledge of Korean society and culture.

The Committee received substantial evidence concerning the teaching of the Korean language and culture in Australian schools. Unfortunately, there has been a decline in Australian student interest in learning Korean. There are several reasons for this decline and the Committee presents a strategy to address this problem. Included in this strategy is the promotion of school exchange visits between Australia and the RoK. The Committee has recommended that the Department of Education, Science and Training promote such visits through direct funding, or by facilitating sponsorship from non-Commonwealth Government bodies.

There is a high level of collaboration between Australia and the RoK in science and technology research. The risk, however, is that this activity becomes piecemeal and uncoordinated. The Commonwealth Department of Education, Science and Training needs to take the lead in providing a strategic direction through the development of an action agenda.

The RoK occupies an important place in North Asia, situated between Japan and China, and has established itself as an economic force in the region and globally. It is important that Australia
continues to maintain and grow its relationship with the RoK. I believe that this report, through its analysis and recommendations, will enhance what is already a strong relationship between the two countries.

In closing, Mr President, I would like to thank all those who provided submissions and gave evidence at the public hearings. Finally, I thank my colleagues on the Foreign Affairs Sub-Committee who undertook the inquiry on behalf of the Committee, and the secretariat.

Mr President, I commend the report to the Senate. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Foreign Affairs, Defence and Trade Committee: Joint

Senator PAYNE (New South Wales) (9.41 am)—On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, I present the report of the committee entitled Australia’s response to the Indian Ocean tsunami. I move:

That the Senate take note of the report.

The Boxing Day 2004 tsunami has the unfortunate record as one of the worst natural disasters to occur in modern times. Equally unprecedented in scale has been the response of the international donor community to help the tsunami victims with their recovery.

Australia has been the largest per capita country contributor to tsunami aid and played a major role in the relief and reconstruction effort, particularly in Indonesia, our close neighbour, where the tsunami struck hardest.

Australia’s collective response has involved federal government departments and agencies, state agencies and non-government organisations, and a range of other individuals and volunteers who have made an extraordinary contribution. In the immediate aftermath of the earthquake, the Australian government committed $68 million. Australian NGO partners received $12 million to provide services, supplies and support to tsunami affected countries, while $23.5 million was donated to the UN to support its activities in coordinating the relief effort. Additional funds, including the $1 billion Australia-Indonesia Partnership for Reconstruction and Development, are progressively being committed against longer term reconstruction priorities. Indeed, within months of the tsunami, Australian non-government organisations had raised a further $313 million from the wider Australian community—an unprecedented level of support from the Australian community and quite extraordinary levels of giving.

It was against the backdrop of this initial generosity and the fact that some 18 months have now elapsed since the disaster, that the committee considered it timely to convene a forum where members could meet with Australian NGOs and discuss, together with government departments and agencies, where Australians’ money is being spent and how aid agencies are continuing to deliver assistance to tsunami affected communities.

The committee hosted a public roundtable hearing at Parliament House on 12 May this year, to which it invited a range of participants, including the five main non-government organisations in Australia active in the tsunami reconstruction process—the Red Cross, Oxfam, Caritas, CARE and World Vision—and officials from the Department of Foreign Affairs and Trade, AusAID, Defence and the Australian Federal Police. Other NGOs were also invited to participate in the roundtable but were simply unable to attend because of timing. We acknowledge their contribution as well.

At the roundtable, the committee gained an overview of the progress to date, learnt about current operational priorities and focused on emerging lessons that should in-
form ongoing responses to recovery requirements in the tsunami affected countries.

The committee, in hearing the attendees at the roundtable tell their stories, was particularly affected by the shared experiences of the agencies, in particular the perspectives of Australian Defence Force and Australian Federal Police personnel who were involved in the initial clean-up and disaster victim identification missions. The stories they told made for compelling listening and, I think, even on the Hansard make for compelling reading. Officers clearly carried out their jobs well, with compassion and dignity under quite extraordinary circumstances, and this is something that those individuals and indeed all Australians can be proud of.

Witnesses outlined some of the many reasons why the rebuilding process is necessarily progressing slowly. Ultimately, the sheer scale and complexity of the disaster must be borne in mind and the reconstruction and development phase viewed in terms of taking years, not months, to complete. It is also important that there be sufficient time for consultation with local communities and to deliver high-quality outcomes to beneficiaries. There are enormous challenges for those involved in the reconstruction—challenges with the supply of materials and labour and, in some instances, the management of corruption issues—but significant work has still been done. Much remains ahead. At the hearing, agencies described a wide range of projects on which they are working to achieve this end, from rebuilding houses, reinstalling basic services and restoring infrastructure, to health and counselling services and training villagers to help with the planning of village reconstruction and direct access assistance.

The committee would like to see greater media coverage, including more positive stories, of the reconstruction effort as it progresses. While the tsunami has moved on from being front-page news, it remains the largest international relief and reconstruction effort staged in recent times, and one to which Australia continues to contribute significant resources. AusAID gave very interesting evidence about arrangements and engagements with local media from Australia and indeed from Indonesia about their endeavours to obtain positive coverage of what is being achieved.

In an era when natural disasters appear to be increasing and the aid community finds itself being stretched to capacity—and, in some cases, perhaps beyond—the committee acknowledges that government and non-government organisations alike are finding new ways to work together and complement each other’s strengths, from engaging in joint reporting processes and civil-military cooperation to informal and formal evaluation processes. One witness at the hearing described the tsunami response as an instance where ‘Australia Inc.’ really did come through.

The committee hopes that this roundtable process contributes to and encourages public discussion of this still important topic, and showcases some of the excellent work being done by Australian agencies and non-government organisations. In closing, I want to thank all the roundtable participants and also my colleagues on the Human Rights Subcommittee, who undertook the inquiry, and the secretariat for their assistance in the process. Mr President, I commend the report to the Senate.

Senator WEBBER (Western Australia) (9.47 am)—I rise to support Senator Payne’s remarks about the Human Rights Subcommittee’s inquiry into and report on Australia’s response to the Indian Ocean tsunami. When we commenced the roundtable hearing in Canberra, Senator Payne opened the discussions by saying that it was actually her
preferred format, and I have to say I think it was a good choice of format for achieving what we did as a committee. It allowed for a wide-ranging discussion between all of the agencies, with those of us from the political process probably trying to minimise our involvement but maximise our education, which can only be a good thing.

The effects of the Boxing Day tsunami, as has been said, meant that it was the largest natural disaster that Australia has ever been associated with. It had a huge impact on my home state of Western Australia and on our community. In fact, we felt the wave of the tsunami down our coast that day. The coming together of all of the different charitable organisations, NGOs and government agencies was a demonstration of all that is good about Australia. In fact, Australia’s response to that tsunami, that disaster that struck our near neighbours, was something that I think really highlighted the fact that we do still have a very egalitarian and compassionate attitude towards those in need.

Not only the NGOs turned up to play their role—and, as someone who has had cause to visit Banda Aceh since the tsunami, I want to place on the record my appreciation of the role that both the AFP and the Defence Force also played. The work that they did not only in assisting and supporting those communities but also in representing our nation was truly remarkable in such adverse circumstances. The accounts that I heard about the work of the defence forces in helping to get the hospital up and running, or vaguely functional, and cleaning out other things sounded like experiences that I do not think anyone would ever want to go through, and there is no training that can adequately prepare you for some of the work that they had to undertake.

My concern, a concern I shared with people during the committee process, is the need for greater public education. Yes, we went in there, and we assisted highly traumatised communities and communities in a great deal of need, but, as Senator Payne said, there is a need now for ongoing support for that rebuilding process, and that is where we need to actually educate the Australian public. We need to educate them in not only the need to give donations—and they were overwhelmingly generous following the tsunami—but also the need for compassion, patience and tolerance in the rebuilding of a highly traumatised community.

A community that loses such a significant percentage of its population loses its local decision-making capacity. A community that is traumatised to the extent that communities were in Thailand and Aceh, as the closest to Australia, are not going to be able to instantly make decisions about the way they want to rebuild and re-establish their lifestyles. Having said that, we as a government, as a community or as a parliament cannot decide that we are going to do that for them. What we need to do is support them along that road of regeneration and show them the same degree of tolerance, patience and support that we did when we initially assisted in cleaning up after the disaster. Having myself lived through a very small natural disaster up in Darwin, I know what it is like when a traumatised community tries to put itself back together and then outsiders come and try to tell you where you are going to live, what house you are going to live in and how you are going to conduct yourself. It is not something that makes for a strong community. It is not something that makes for any form of community.

We need to educate ourselves about the other kinds of support that we can provide to that community to help it recover from that disaster. That is a role that the Australian media should play. Rather than saying three months later that there are still no houses and
other services, we should talk about what we can do to assist those people to work out what kind of housing they want, where they want to live and how they want their community to function. There is an important role for those of us in this place, for the other agencies and particularly for the Australian media in educating people who make contributions to these charitable collections about the need for ongoing and lasting support.

Senator STOTT DESPOJA (South Australia) (9.52 am)—I rise to speak on the report of the Joint Standing Committee on Foreign Affairs, Defence and Trade entitled Australia’s response to the Indian Ocean tsunami and on the roundtable discussion. I support the remarks made by the chair and Senator Webber. I want to specifically address, recognise and commend the efforts of all of those who contributed to the rescue and salvage effort in the aftermath of the tsunami. In particular, I draw attention to a group of Australians who participated in one of the grimmest tasks of the effort: the identification of victims.

The Australian DVI contingent, comprising Australian Federal Police and members of our state police forces, performed a gruesome task in a challenging environment in assisting with the identification of more than 5,395 bodies recovered in Thailand alone. In the immediate aftermath of the tsunami, the Australian Federal Police and state and territory police forces sent a contingent of DVI staff to Phuket in Thailand to begin the task. The group included DVI specialists, family support officers, welfare officers and communication support staff under the command of Karl Kent of the AFP Forensic Field Services, who was requested by Thai authorities to take on the role of joint chief of staff coordinating the response.

The Australians joined forces with more than 600 others from 30 different countries and, of course, the Royal Thai police, under Deputy Commissioner General Nopodal Somboonsub, to form the TTVI, the Thai Tsunami Victims Identification. Last year I had the privilege of meeting with General Nopodal as well as the Australian and international DVI contingents. My special thanks to AFP Agent Bernie Young and Detective Inspector Tony Cerritelli for their assistance. I witnessed some of their vital work and experienced first-hand—albeit briefly compared to what they had to deal with—the challenging environment they endured. In addition to the stifling heat and humidity, DVI workers faced long journeys to their work sites. The DVI post-mortem sites were improvised facilities featuring rows of refrigerated containers housing bodies. They worked on what was dubbed the ‘mortuary line’—that is, examination tables set up under shade cloth with only mobile fans to battle the heat—for 12 hours each day. They were gathering victims’ clothes, jewellery and other samples for the purposes of DNA testing. The teams processed up to 180 bodies a day.

Sergent Cheryl Brown from the South Australian police force was second in charge of one of the mortuary sites. She described the difficulty of the task, saying:

The sheer scale of the catastrophe was overwhelming, and the task of identifying people was made difficult due to the heat, humidity and rapid decomposition of the bodies.

Victims’ bodies were identified using fingerprints, dental records or DNA. Samples were cross-matched with those obtained from other sources. Accessing these secondary samples required the assistance of other state and territory police in Australia. They had the critical task of approaching next of kin for DNA and other items, such as toothbrushes and hairbrushes, which would have DNA on them.
Confirming the identity of many victims proved difficult in many cases due to a lack of ante-mortem data, such as dental records. In the case of local victims, many of them had no such records whatsoever. By July last year, six months after the tsunami, 30 per cent of Thai victims had been identified. When you compare that to the German victims, you will see that 94 per cent of German victims were identified by that time. The advanced state of decomposition of many of the bodies also hampered the retrieval of samples for the purposes of identification. Tragically, the identification of the tsunami’s youngest victims also proved incredibly difficult. Many children were simply too young to even have dental or fingerprint records.

The DVI team have also had to deal with a community that has been influenced by the ‘CSI effect’—that is, the television phenomenon where investigations are quickly resolved due to quick processing of critical forensic evidence, mirroring the pace of the television shows. In reality, the collection and processing of forensic information and evidence is much less glamorous and takes much longer. Dramatic breakthroughs that crack the case are rare. In fact, in optimum conditions, a full DNA profile will take around two weeks to obtain from a tissue sample. Obviously, the DVI teams took longer. In the initial aftermath of the tsunami, some members of the media and the public struggled to comprehend these so-called delays in identification processes and in the repatriation of the victims’ bodies. But this was painstaking work requiring attention to detail and enormous patience and dedication, and it allowed no room for mistakes.

Many of the Australian DVI contingent donated their time. People took holidays in order to be a part of this process, to be a part of this extraordinary international effort. It was cooperation on a scale that I have never witnessed, and I want to pay tribute to it. It is important that we provide support to those DVI workers returning to Australia. When you imagine the conditions that they have been in and the work that they have had to do, we must ensure that they are looked after when they get home, whether it is counselling, support or services in other ways.

The remains of the last Australian victim of the tsunami were identified in August last year, but Australian DVI staff remained in Thailand until December, continuing the task of identifying more than 1,600 remains. Australians were working with other people from around the world to identify all victims, not just Australian victims. At the DVI worksite that I visited, the temporary international community erected a wall of remembrance to commemorate the tsunami’s victims. The name of each country affected by the tsunami was inscribed along a long white-washed wall which stretched off into the distance. It said:

This wall of Remembrance represents a memorial to the victims, families and relatives whose lives were so devastated by the Asian tsunami disaster of December 26, 2004. Our heartfelt condolences are offered to all who visit this site in order to pay their respects to their loved ones.

It is a shrine for all the victims, but especially those who will not be repatriated. I know that visitors often leave wreaths and flowers at that site below their country’s name. The wall not only paid tribute to the victims of the tsunami but also to the many efforts of so many different countries that united to help their own and the Thai people in the aftermath of such a disaster. I am extremely proud of the efforts that our country contributed in the context of the international community in the aftermath of such a horrific disaster. I seek leave to continue my remarks later.

Leave granted; debate adjourned.
AVIATION TRANSPORT SECURITY AMENDMENT BILL 2006

First Reading

Bill received from the House of Representatives.

Senator SCULLION (Northern Territory) (10.00 am)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator SCULLION (Northern Territory) (10.01 am)—I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

AVIATION TRANSPORT SECURITY AMENDMENT BILL 2006

Aviation security is a high priority for this Government and is under constant review to ensure that the regulatory framework is responsive to changing threats to the Australian aviation industry.

The bill is a first step in the review of aviation security legislation that was recommended in the 2005 Wheeler Review. The bill was designed in consultation with industry to deal with two pressing operational concerns:

- Improving the regulatory arrangements that would apply when a security controlled airport conducts activities that are not part of its usual business; and
- better allowing for the management of cargo examination and handling.

The amendments have been designed to ensure that the legal regulatory framework is better aligned with the actual business and operational practices of aviation industry participants. In both instances, much of the detail will be prescribed in regulations to be developed in consultation with industry. Regulations allow for a more flexible and timely regulatory response in an environment where new risks can emerge without warning.

Managing Events

The first set of amendments focuses on managing events and specialised activities at security controlled airports. There are many occasions where airport operators manage events or specialised activities that are outside their usual business. Examples include receiving and farewelling dignitaries at international airports, managing a large commercial venture such as an airshow, and hosting a community event at a regional airport.

The existing scheme of airport security zones is well adapted to routine activities, but industry indicated that there is a need for a more flexible structure to manage events. The bill provides for a system of event zones that will make it far easier to appropriately vary or suspend some of the usual security arrangements for the duration of an event. For example, some events are so strictly managed that it is not necessary to require everyone present to wear an aviation security identity card.

The security rules that will apply within an event zone will be tailored to suit the type of event and the perceived level of risk.

A related amendment contained in the bill will make it easier for an aviation industry participant to make simple changes to its Transport Security Program. The existing requirement to formally revise a program when a simple change is needed is unnecessarily cumbersome and tends to discourage the sort of simple routine alterations that ensure plans fully reflect current operational practice. The new process will be particularly useful to quickly alter a plan so that it is appropriately adapted to managing a forthcoming event.

Cargo Handling

The second set of amendments in the bill will further refine the security process for handling domestic and international cargo before it is taken onto an aircraft. The existing Regulated Air Cargo Agent scheme applies to those persons in the business of handling or making arrangements for the transport of cargo to be carried on an aircraft only if they have applied to be a Regulated Air Cargo Agent.
The proposed amendments aim to maintain the broad scope of the cargo scheme and introduce a framework for a layered approach to security within that scheme. Subject to operational detail that will be worked out in consultation with industry and specified in the Regulations, the scheme will apply to the whole air cargo supply chain from the point of consignment until upload on an aircraft. In this way, more effective and reliable security procedures can be applied before cargo is consolidated for shipment. The amendments allow for security responsibility to be apportioned to reflect the increasing significance of a threat to aviation as cargo moves along the supply chain towards the aircraft.

By introducing the new concept of an Accredited Air Cargo Agent, the bill will allow for different but complementary security measures to be prescribed for different parts of the supply chain. These differing requirements will be based on criteria such as the size, scope and security risk posed by a participant’s operations.

The changes are expected to reduce the number of air cargo industry participants who are required to maintain a transport security program, but is likely increase the number of air cargo industry participants who are regulated under the Aviation Transport Security legislation. This is expected to deliver a more effective security outcome while reducing the overall regulatory burden on the industry.

Overall this bill makes two significant improvements to the aviation security regulatory regime. It is designed to improve security outcomes and to allow for better alignment of regulations with actual operations.

Ordered that further consideration of this bill be adjourned to the first day of the next period of sittings, in accordance with standing order 111.

COMMITTEES
Community Affairs Legislation Committee
Reference
Senator SIEWERT (Western Australia)
(10.01 am)—I move:


... the Department of Employment and Workplace Relations reassess which of the guidelines under the package are to be disallowable by the Parliament; that is, that it ensure key aspects of the guidelines be determined by disallowable instruments. This will ensure consistency in application as well as appropriate Parliamentary scrutiny. In particular, the Committee recommends that guidelines dealing with what constitutes unsuitable paid employment, special family circumstances, suitable and unsuitable activities for participation, and compliance issues are based on disallowable instruments.

(2) That the following matter be referred to the Community Affairs Legislation Committee for inquiry and report by 14 September 2006:

The extent and effectiveness of the following regulations made under the Social Security Act 1991 in giving effect to the recommendation of the Community Affairs Legislation Committee’s report:

(a) Social Security (Activity Agreement Requirements) (DEST) Determination 2006 [F2006L00390];
(b) Social Security (Activity Agreement Requirements) (DEWR) Determination 2006 [F2006L00338];
(c) Social Security (Activity Agreement Requirements) (FaCSIA) Determination 2006 [F2006L00348];
(d) Social Security (Prospective Determinations for Parenting Payment Recipients) (DEWR) Guidelines 2006 [F2006L00336];
This motion relates to what I believe is an extremely important issue, and I seek to have the Senate Community Affairs Legislation Committee review the legislative instruments that implement the Welfare to Work legislation. We had what I consider a fairly limited debate when the Welfare to Work legislation went through this place, and only three days of committee hearings. During the second reading debate in the Senate, through to the Committee of the Whole debate and the Senate committee hearings, we heard a number of concerns expressed about the implementation of the legislation.

Everyone is well aware of the concerns of the Greens—and, I think, of most members on this side of the chamber—about the impact that these significant changes will have on the most disadvantaged in our society. The legislative instruments were implemented as a means of dealing with some of these concerns about the implementation of the legislation, because a lot that is left up to the interpretation of the secretary of the department, of departmental officers and of Centrelink officers will have profound implications for the people who are subjected to the Welfare to Work regime.

During the committee process, a number of recommendations were made about things that should be put into legislative instruments. I note that during the process of debate a number of concerns were raised about things that were to be left in the guidelines. There were commitments made about addressing issues in legislative instruments. Some of those issues have been picked up in the legislative instruments and were tabled in this place. I did not seek to disallow those instruments because, while they look to me to be not fully adequate to cover the issues that need to be covered, some instruments are better than others. But I do think that, while they are being implemented, the committee should be reviewing their effectiveness.


...the Department of Employment and Workplace Relations reassess which of the guidelines under the package are to be disallowable by the Parliament; that is, that it ensure key aspects of the guidelines be determined by disallowable instruments. This will ensure consistency in application as well as appropriate Parliamentary scrutiny.

I believe that the appropriate response to ensuring appropriate parliamentary scrutiny is to refer it to the committee to review the effectiveness of these instruments: whether the instruments are adequate, whether the
specific instruments cover all of the issues and whether all the issues are covered by them. The recommendation of the committee goes on to state:

In particular, the Committee recommends that guidelines dealing with what constitutes unsuitable paid employment, special family circumstances, suitable and unsuitable activities for participation, and compliance issues are based on disallowable instruments.

I think everybody would agree that those issues are extremely significant to people affected by these changes. I believe there are some errors by omission in the instruments. There are gaps and inconsistencies, and promises and assurances made during the debate on this legislation have not been delivered on. We need to ensure that these legislative instruments are fair and equitable, that not too many sensitive issues are left to the discretion of either the secretary of the department or those implementing the guidelines—for example, Centrelink—and that there are clear guidelines around the things that are left to their discretion.

I also remind people that I believe the level of a development of a society—the maturity and humanity of its culture—is not measured by how it treats its foremost citizens but by the way it looks after the welfare of its least fortunate. That should be borne in mind whenever we look at these types of issues. We face a significant challenge in Australia in that the gap between rich and poor continues to grow. We do not seem to be making it any smaller—that is for sure.

We know that it is the size of this gap that is having quite a significant impact on people within our society. It is not really the objective wealth of the disadvantaged that is the best indicator—and I have talked about this issue in this place—of the amount of crime and conflict and the level of chronic illness; it is actually the fact that the gap exists in the first place. We need to ensure that we are addressing that specific issue. I believe that these changes are one of the most significant group of changes to affect the welfare system in this country in a very long time, which is why I think we need to do everything we can to ensure that it is fair and equitable.

I am not convinced by the rhetoric that we heard from the government about how this will in fact be better for the most disadvantaged in our society. I do not believe it, and I am not convinced by the issues that have been brought up here and that the government has put on the table. Be that as it may, the government brought in this legislation, and I think it is now incumbent on us as legislators to make sure that the legislative instruments that are in place actually do deal with the significant issues that have been raised by the community and by the most disadvantaged.

During the discussions, as I said, there were a number of issues raised. I want to address some of them now and look at how they were picked up by the instruments that have been tabled to date. In saying that, I am also aware that some of the issues that were brought up were supposed to be dealt with by guidelines. Those guidelines, as we heard in this place the other day, will not be available until 3 July. We have not seen them. They are not being covered as legislative instruments. They are not having the parliamentary scrutiny that the committee report recommended. It recommended that there were many key issues that should be determined by disallowable instruments to allow parliamentary scrutiny, which is why I am trying to refer these issues to the community affairs committee so that it can have that due level of parliamentary scrutiny.

I believe we need to do the best we can to ensure that these regulations are fair, just and equitable, and that they are actually helping people that are affected by what I still main-
tain are draconian changes. I have looked at the recommendations from the report that I have just mentioned. I have also been looking at the community concerns that have been raised in the inquiry and in public fora. I have also been looking at some of the answers that we got back from estimates on some of the issues, to look at how effectively these issues are being covered in the legislative instruments. The legislative instruments that we are looking at cover a range of issues such as special circumstances relating to a person’s family, activity agreements and compliance issues in particular.

I would like to touch on compliance issues now before I go into the specifics of some of the legislative instruments. As far as I can find in looking at the legislative instruments, compliance issues are not dealt with by one specific instrument, so they are much more difficult to look at as a block. They are not dealt with in the same way as the others. There is not a single disallowable instrument that deals with compliance. There are a number of things about compliance in the act—as we all know, the draconian breaching of people and what is going to happen to those people when they are breached. There is a ‘reasonable excuse’ legislative instrument, which I will go to in a minute.

I think it is arguable that the compliance regime has not been wholly outlined and implemented, as was recommended by the committee that I highlighted earlier. I do not think it is as clear as the committee had intended in the recommendation that it should be. Because it is not clearly in the form of a disallowable instrument, it does not allow this chamber to have the level of scrutiny that I believe is particularly important when we are dealing with compliance. There are still significant elements of the compliance regime that will be in the guidelines—which, as I highlighted earlier, despite this legislation coming into force in the very near future on 1 July, which is a weekend, will not be available until 3 July. I am also concerned that some of this compliance regime will be at the discretion of individual Centrelink or Job Network staff. I do not believe that is good enough. It should be essential that more scrutiny is given to the compliance regime and compliance process issues than has been given through the legislative instruments that are available at the moment.

As I said, during the limited and constrained debate on these issues, we heard a lot of concerns by community organisations, peak representative groups, church groups and charities. I would like to outline a few of those groups so that people can understand the widespread concern in the community. There was ACOSS, the Welfare Rights Network, the Australian Council of the Disabled, the Council of Single Mothers and Their Children, the Sole Parents Union, the Physical Disabilities Council of Australia, Brain Injury Australia, Catholic Welfare, Anglicare, the Brotherhood of St Laurence, ACROD, Jobs Australia and the various state COSSes and state disability councils. There was widespread concern from groups who wrote in about many and varied issues.

A few of their concerns were addressed in the legislation—not many—and I acknowledge that many of them dealt with the body of the legislation and cannot really be dealt with in the legislative instruments. Many of their concerns, as I said, were related to the substance of the act, which I acknowledge cannot be modified as much I would like it to be by instruments or regulations. For example, going back to the issue we are concerned about, there is the reduced rate of access of sole parents, people with a disability moving from PPS to DSP and onto Newstart, inadequate funding for places and intensive programs of employment assistance, moving people from parenting payment single onto
Newstart, and all those issues which are still of deep concern to many of us.

Looking over some of the specific legislative instruments, I have many concerns. I have had some input from some community groups about the effectiveness and the coverage of some of these disallowable instruments. For example, if you look at activity statement requirements, there is concern that they are not comprehensive enough, that the wording in some places is very general and is open to interpretation and dispute, and that there are many matters that are up to the opinion of the secretary. That came up repeatedly during the committee discussions, and many, many concerns were raised about the opinion of the secretary and the discretionary nature of some of the decisions that will be made.

We have many concerns because we have not seen the guidelines yet, so we do not know how they interact with the legislative instruments and the activity agreements. There is concern that they are not comprehensive enough. There are issues around what has and has not been included, and what constitutes unsuitable work. There is provision, for example, for when it takes you longer than 60 minutes to get to work, but we do not believe it is detailed enough for those with disabilities in particular. As was articulated earlier, many of us have extreme concerns about the impact of the Welfare to Work changes for those on disability support being forced onto Newstart. But we are particularly concerned that there is not enough provision for people with a disability who are required to travel to work, as it is going to take them far longer to travel somewhere.

There are also the issues of child-care costs and how they are interpreted. There is the cost of personal-care equipment for those with a disability and the additional equipment expenses required for those trying to find work. There are the issues of those caring for people with a disability. The emotional and physical wellbeing of the person with a disability should be included. There are concerns about how some of the requirements for the determination of level of illness and disability will be implemented and the likelihood of different activities aggravating this. There is a big role for the medical profession there, and we do not believe the instruments clearly articulate the role of the medical profession and how they interact with the legislative instruments.

We have concerns about how the legislative instruments deal with those with a mental illness. There was a lot of discussion in the committee about how people with mental illnesses, specifically episodic illnesses, will be affected by these changes. There are also concerns about the participation requirement exemptions for those in remote areas. I understand some of this has been dealt with in regulations in the past. How those regulations are to be changed, we do not know because we do not see those until 3 July. We do not know the level that will now be dealt with in the legislative instruments as compared to the guidelines. It is very difficult to tell what has been left out of the legislative instruments and will be picked up in the guidelines—again, we have not seen the guidelines so we do not know.

During the discussions there was a great deal of concern expressed about those impacted by and subject to domestic violence. I do not consider that that legislative instrument deals with those issues very well at all. For example, a determination must be made within four weeks of separation or bereavement. In many cases, grief takes a much longer period. We cannot confine grief to a limited period of four weeks, for example. There are issues around hiding from violent partners and how going back to the same
Centrelink office, or another office, may lead to interaction with your former partner. There are a lot of issues around that, and a lot of issues are left up to the discretion of the secretary.

There are likely to be extreme difficulties for staff implementing some of these guidelines. One particular statement jumps out at me in that legislative instrument. It says, with regard to matters to be taken into account when making a judgment, that there is ‘significant adverse impact on the person’s emotional or physical wellbeing’ and that this ‘will prevent, or is likely to prevent, the person from both being able to look for work and being able to participate in training activities.’ In my opinion, this should probably be left to someone’s professional psychological judgment rather than leaving it up to somebody at Centrelink—and that is not having a go at anybody at Centrelink. I think these are extremely complex issues and, when you are dealing with the issue of domestic violence, which is particularly sensitive, there is no strict rule book. I do not believe this legislative instrument has sufficiently dealt with these issues. I think a committee needs to look at these issues. These legislative instruments need to be carefully considered to ensure that they are delivering, as I said earlier—that they are fair and just and do not adversely disadvantage the most disadvantaged members of our community.

Another area of concern is the participation requirements and exemptions for those who are homeless. While these areas are partially covered by reasonable excuses, we do not believe that they are adequate. They are not addressed in the activity requirement statements or the activity requirement legislative instruments. Again, it is ad hoc. One would argue that that is another most significantly disadvantaged section of our community which is not being adequately addressed in these legislative instruments—again, another reason why we need a review of these legislative instruments to make sure they are delivering a fair, just and equitable system.

I really do not see why the government would not support a review of these instruments, particularly once the guidelines come out, so that we can ensure nobody is falling through the gaps and that this system is being implemented in such a way that people are assisted into the workforce but are not significantly disadvantaged. Nobody is disagreeing with the fact that, as a community, we should be helping as many people as we can into the workforce, but there are significant issues which need to be dealt with around that. I very strongly believe that these instruments have many gaps and need to be looked at and addressed. The way to do that is to send it to the committee so that they can have a look at this and then come back and report to this place about how these instruments are implementing the effect of the act.

Senator WONG (South Australia) (10.21 am)—The Labor Party will be supporting the motion moved by Senator Siewert on the social security regulations. Our view is that there should be no delay in the introduction and operation of these regulations. Our view is that there should be no delay in the introduction and operation of these regulations. That is a matter we have had discussions about in communication with some of the welfare groups. Whilst people may not be supportive of everything that is in these regulations, obviously, in terms of the efficacy of the system, it is important that the regulations commence on 1 July, which is when the government’s so-called Welfare to Work changes become operative. However, I understand from Senator Siewert’s motion that it is quite possible for the committee to hold this inquiry without delaying the operation or implementation of the regulations. On that basis, we are supporting the motion.
There are a number of things which are highly problematic in the way the government has approached its welfare changes. I am not going to deal, initially, with the substance of the policy matters, which Labor has already made clear that we have significant problems with. We do not think it is a competent package. We believe that changes which actually reduce the financial reward from working and increase the taxation levied on every single dollar someone earns is hardly a sensible way to help people go from welfare to work. We do not believe that reducing the income levels of some of our most vulnerable Australians is a very sensible way to support people into work. We know from the government’s most recent figures that, for example, someone with a disability faces being worse off by $90 a fortnight from 1 July if they are put onto the lower dole payment. No matter how much the government argues that that is not necessarily the case, because they may get a job, the fact is that that is entirely hypothetical. Even the government’s own figures establish that over 100,000 people are in fact going to be worse off under these changes—and they are some of our poorest Australians.

I do not want to deal at length with the fatal flaws at the heart of the government’s welfare changes. I do want to make some comments about the way in which the government has avoided scrutiny and parliamentary oversight of the implementation of some of the largest changes to social security in a generation. It became very clear through the Senate Community Affairs Legislation Committee’s inquiry and report into the welfare changes—which was truncated, as was the debate, because the government obviously set an unreasonable time frame and then guillotined the debate—that a great many things which were previously in the legislation were going to be put into guidelines and/or disallowable instruments.

It is clear, from looking at the regulations which have been tabled before the Senate, that in fact there are a great many matters going to people’s obligations, rights and also potential punishment under the system that will be in guidelines which will not be brought before the chamber. This is in the context of the government putting in place the harshest breaching regime that one could probably consider feasible—a breaching regime which will see 18,000 people without any income support whatsoever for a two-month period. I know Senator Vanstone is in the chamber and, while she may not be the most soft-hearted minister this government has ever seen, this is a far harsher breaching regime than anything I can recall Senator Vanstone bringing before the chamber when she was social security minister.

So we have a breaching regime which will see about 18,000 people, on the government’s own figures, without income for two months—even if they try and remedy whatever it was they did wrong. That is probably the key—you get punished even if you then say: ‘Yeah, I did the wrong thing. I needed to go to this interview, I needed to take that job or I missed this interview for these reasons.’

Senator Vanstone—if they did the wrong thing three times.

Senator Wong—Senator Vanstone interrupts and says it is three times. Senator, you might want to know that your legislation actually says you can be breached immediately if dismissed for misconduct. You do not have to be dismissed three times. And, in the context of your industrial relations changes where people cannot dispute that they were dismissed for misconduct, that will be one strike and you are out for two months. On the government’s own figures, of the 18,000 people, only 4,000 to 5,000 will actually get emergency payments to cover food. So you
will have 14,000 people a year who will not be able to get payment for food or shelter.

The point I want to make is that that breaching regime, which is an extraordinarily harsh regime, is not put into any instrument that comes before this chamber. So you have extremely intrusive legislation, legislation which imposes very harsh penalties on a group of Australians, that apparently the government is quite happy to deal with administratively and bypass the chamber. That is consistent with the way the government has treated the Senate since it got the majority in here—trying to avoid scrutiny, trying to avoid consideration in detail and trying to avoid accountability.

We are speaking about this in the context of Senator Minchin having told us this week how he is going to effectively neuter the Senate committee system, which has been an extraordinarily important part of the way this place has operated for over a decade. The government is changing a system that, in fact, the Liberal Party and the National Party supported when they were in opposition and then introduced. Now the government has the numbers, it wants to take this away from the chamber and completely alter the way in which the Senate operates.

Leaving that aside, the point is—as Senator Siewert indicated—that Senator Abetz, in a debate earlier this week—or it might have been last week—indicated that the social security guidelines and the guidelines in relation to breaching will not be available prior to 3 July. We have been offered a briefing and we are seeking to take that up. It appears there is some difficulty in terms of availability, but that is going to be arranged. But I think the more important issue is that not only is the Senate not aware but the community is not aware of a great amount of detail associated with the implementation of these welfare changes prior to the date they come in.

These welfare changes are due to be implemented on 1 July. The guidelines in relation to both social security and the breaching regime will not be available until 3 July. It is an extraordinary administrative delay and incompetence by this government that, some 15 months after they announced these welfare changes, they are still not in a position to provide to the chamber or to the community the guidelines which set out a great range of the detail of obligations, rights and requirements which will be placed on hundreds of thousands of Australians. People are going to commence this regime without actually being told, or being able to read, what their rights and obligations are from 1 July. Goodness knows how Centrelink is going to implement them if the guidelines are not publicly available until 3 July. I feel for that agency having to try and put in place those changes in such a short period of time.

Certainly the welfare advocates, people who represent the people who will be affected by this, will not have the final version—or not that I am aware of, in any event—but, perhaps as importantly, this chamber will not have the opportunity to consider some very significant changes in terms of their impact—I do not think they are significant in terms of their benefit—or the rights and obligations faced by many Australians. We place on record from the opposition’s perspective that we consider, as do many in the community, the government’s delay and incompetence around the introduction of its welfare changes to be utterly unacceptable to this chamber, but also utterly unacceptable to the many people in the community who will be affected.

Senator BARTLETT (Queensland) (10.30 am)—I am not sure if there is going to be a government speaker to this motion; I
hope there is. Unfortunately, since the government gained control of the Senate we have seen a trend amongst the government of often not even bothering to put a position on the record about Senate committee references that they reject. I hope this is not another such occasion. We do need to remember—and I genuinely say this to all senators on all sides of the chamber—that debates on these sorts of references are not primarily opportunities for scoring political points or highlighting political positions. They are opportunities to examine important areas of law that directly affect the lives of millions of Australians. That is what this reference is about and that is what the primary purpose of this chamber should be: to look at issues and consider how they affect people in the real world. It should not be about who is winning the rhetorical debate, who has got the best witty put-down or who has got the best stunt for the evening news. The crucial task we have to do is to examine the measures that pass through this place, examine how they are administered by this government and examine how they affect Australians and Australian families. That is what this reference is about, and I congratulate Senator Siewert for putting it forward.

There are two aspects to this issue. We have all had our say on the so-called Welfare to Work legislative regime. This is yet another in a long line of grotesquely misleading Orwellian slogans that the government are using. I need to put on the record once again—and I should not have to do this but I do need to, because of the continual distortion of this fact by at least some in the government—that when I express concern about the potential impacts of the so-called Welfare to Work regime, it does not mean that I, or anyone else who expresses concern about it, do not want to see people get off welfare and into work. We all want to see that. The concern that I and many others have is: what about the impact on those who are not getting into work, or those who are getting into only part-time or intermittent work who are not going to be any better off? Those are the people I am concerned about, and those are the people who are not covered by the misleading label of ‘Welfare to Work’.

The 11 different social security determinations that have been put forward as worthy of examination by a Senate committee are not just rhetorical devices. They are not just mechanisms for each of us, on any side of this debate, to use as political clubs to beat each other into submission with, or to use to manoeuvre our way into a better political position in the political marketplace leading up to the election. These are legal determinations that have a direct impact on the lives of Australians.

Regardless of who did and who did not support the legislative changes that put in place the so-called Welfare to Work regime, we do need to see how it works in practice. From a point of view of just good governance, even those who supported the so-called Welfare to Work legislative changes should be supporting a reference such as this. For the sake of good governance, good public policy and good public administration, regardless of our philosophical viewpoints, we should be examining how these things work in practice.

I remind the Senate and those who are listening to this debate and who may have forgotten—or may not have been aware in the first place—that the Welfare to Work legislation that was passed is another of an unfortunately growing number of pieces of legislation which put in place a framework but do not include details of how they are going to work in practice. When we had the Senate committee inquiry into this—a very limited inquiry, I emphasise—it was clear that the departmental officials themselves did not
know the detail of how these broad measures would be implemented in practice. The determinations, the regulations and the administrative procedures were yet to be worked out. When these matters were followed through by some senators at Senate estimates committees—for a shorter period this year than we have been able to do in the past, which is another example of the slow reduction in the opportunities for scrutiny—again it was clear that in some areas it was yet to be decided what the detail of some of these determinations would be and how they would operate in practice.

This should not be a philosophical or ideological debate about the merits or otherwise of the Welfare to Work changes. We have all expressed our views on those changes. It should be a matter of a straightforward public policy operation. It should be a matter of doing our basic job of examining how things are working in practice—whether they are operating in the way that the government has assured us they would, whether there are unintended consequences, what the real impacts will be, and what the human impacts will be of a particular group of words on a piece of paper. That is what our business in the Senate should be about more than anything else: examining the impact of policies on the Australian people, on families, on people with disabilities, on sole parents, on children. That is what we should be looking at. We should be looking at the real-world impact, not the impact on the make-believe, rhetorical world that too many of us inhabit. That is all that this motion proposes: that we have a look at the extent and the effectiveness of the regulations.

Frankly, if government members believe that the so-called Welfare to Work changes are as good as they say they are, they should be supporting an inquiry like this, because I would assume that they would believe that it would demonstrate that these changes are being effective, that they are having the desired effect, that people are getting into work, and that all of the concerns that people like the Democrats and others on this side of the chamber have expressed are not being borne out. Here is the opportunity for that to be demonstrated. Here is the opportunity for the nay-sayers to be proven wrong by the government by having a proper investigation.

I should point out, without going into the debate that was had yesterday, and is still to be resolved by this chamber, about Senate committee structures, that this is proposed to go to the Community Affairs Legislation Committee, a committee chaired by the government, where government members have a majority. So we cannot have all those furphies that were run yesterday that this is just some stunt to refer this to an opposition controlled committee that will beat up on the government. It is going to a government controlled committee chaired by a government member. There is simply no way that this could be seen by any objective observer as just some political stunt. It is a genuine and very important attempt to look at the consequences and effects of these regulations and these determinations.

It would be an extremely poor move by government senators if they did not support this, because I believe it would reflect, once again, a reinforcement of the concerns and the belief that many of us have that this government do not want real scrutiny of what they are doing. They are happy to have the opportunities for press conferences outside, and media doorstops where they can mouth their rhetoric, and they are happy to use taxpayers’ money to run nice television advertisements that make everything look good, but they do not want genuine scrutiny of what is really happening.
If the government votes against this motion, that is what we will be seeing—another action to consciously and deliberately prevent genuine objective scrutiny by a government chaired and controlled committee of what is actually happening on the ground to people in the community. I would be extremely disappointed if no government senator was prepared to support this reference.

Senator SIEWERT (Western Australia) (10.39 am)—If the government is not going to speak on this, I will take the right of reply and basically pick up where Senator Bartlett left off. I believe that it is part of our role as legislators, particularly in this chamber, the house of review, to review the implementation of very significant pieces of legislation such as this, which will have impacts on the real lives of hundreds of thousands of Australians—Australians who are the most disadvantaged in our community and Australians who in many circumstances are providing care and support for those with disabilities that need support. In many cases, carers are the ones that are going to be affected by this piece of legislation.

I could not let this opportunity go past without again referring to the issues of family carers and the fact that under this piece of legislation family carers are not being adequately addressed and looked after. The government quite rightly moved to exempt foster carers from this process but they forgot family carers. Although I am told—we have not seen the guidelines—that there are some measures in the guidelines to provide temporary exemptions to family carers, they are not covered in legislative instruments, and I do not know if they are going to be significantly and properly covered by the guidelines. There is no mention, again, of family carers in the legislative instruments, and that is another issue that I think needs to be reviewed.

I think that the Community Affairs Legislation Committee should be given the role of reviewing these instruments. They made a very strong recommendation that a lot of issues be covered in instruments. Now I think that they should be reviewing those instruments. We need to know whether these instruments are going to work and whether they will cover all the issues that have been raised and that come out of the implementation of this act.

This is an extremely significant change—probably the most fundamental change to the welfare system in this country in a very long time. You would think that, if the government thought they had got it right, they would be willing to have these legislative instruments scrutinised. You would also think they would want to know if there were problems that were impacting on the hundreds of thousands of Australians that are affected by these changes.

I urge the government to support this reference to find out whether they have got it right—whether this legislation is putting in adequate checks and balances, whether it is fair and just and whether people are missing out and being unfairly disadvantaged. But clearly they do not want to do that. They do not want to know if they have got it right, which disappoints me greatly and I think is to the detriment of the hundreds of thousands of Australians that are affected by this legislation. I moved the motion that these legislative instruments be referred to the Community Affairs Legislation Committee so that we can have full scrutiny of whether these instruments are actually doing the job that they are supposed to be doing.

Question put:
That the motion (Senator Siewert's) be agreed to.

The Senate divided. [10.47 am]
COMMITTEES

 Procedure Committee

Reference

Debate resumed from 21 June, on motion by Senator Chris Evans:

That the proposals to alter the structure of the Senate committee system, announced by the Leader of the Government on 20 June 2006, be referred to the Procedure Committee for inquiry and report by 17 August 2006.

upon which Senator Ellison had moved by way of an amendment:

Omit “17 August”, substitute “10 August”.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.50 am)—The Democrats will of course support this referral to the Procedure Committee of the proposed changes to the Senate committee system. It is, of course, what the government should have done in the first instance, but it has been forced to do so now because of the reaction to this proposal, I think. I want to start today by quoting the Prime Minister. He said, just after the 2004 election:

I want to assure the Australian people that the Government will use its majority in the new Senate very carefully, very wisely, and not provocatively.

Twelve months later, it seems that neither the Prime Minister nor the government members of the Senate could contain themselves any longer, and they are now saying: ‘We have to do this. We have to take over the committee system, we have to close down the references committees and we have to put coalition chairs in charge of those committees.

Therefore, we need a majority of coalition members on those committees.’

I think it was Senator McGauran who said, ‘We have to do this because we are now in a majority.’ I remind senators opposite that they are in a majority—as has been pointed out many times in this debate—but it is a
majority of one. Had it been the case that the Australian people had voted for only coalition members to represent them in the Senate, this might be a cogent argument. But it is not, because there is a balance in this place—and this place depends on that balance in order to work effectively.

While I am on the subject of Senator McGauran, I note that he came into the chamber and said—as he often does—that the Democrats had not spoken on this debate. They had. If he had been listening, watching or looking at his monitor he would have known that. So, as usual, taking no notice of what anyone says in this place, he declared that the Democrats had not spoken. My colleague Senator Bartlett had spoken in this debate just a couple of speakers before Senator McGauran. So wrong again, Senator McGauran.

Senator McGauran and others said, ‘All we are doing here is going back to the situation we had in 1994.’ How that is an argument, I do not know. In 1994 very sensible reforms were put in place to make the committee system work in terms of being a check on government and a scrutiny of what the government was doing, and to give the committee system the capacity to inquire into not only bills but also broader references—which have been the hallmark of this place and why people regard the Senate as such an important institution.

The government says, ‘It will be more efficient if we have government chairs, and we will stop all those frivolous proposals for inquiries that have been getting up in the past few years’—all of it total nonsense! This is a sledgehammer approach. This is parliamentary dictatorship writ large. It is a grab for power. It is an attempt to make the Senate into the twin, if you like, of the House of Representatives—for it to be no more able to be a check on government than is the House of Representatives, which is a rubber stamp, as we all know. It will stifle criticism and it will stifle scrutiny of government actions—or inactions, as the case may be.

I want to refer to the Senate inquiries that were not given the go-ahead over the last 12 months that would have otherwise been up and under way at this point. One of them—I think one of the most important—was the impact of the welfare changes on people with disabilities. This was an extraordinary decision on the part of the government. There is huge criticism out there about what is going to happen to people with mental illness and people with disabilities across the board when the new changes come in. Matters also not given the go-ahead included issues of overtime and shift allowances and the impact on work and family; the deportation of Mr Scott Parkin; the involvement of the Wheat Board in the Iraq oil for food program; and the adequacy of the aviation safety regime in this country—criticised hugely by pilots and others in the aviation industry, but, no, we are not going to look at it. Other matters include the processes for assisting refugees and humanitarian visa holders—again, knocked back by the government and yet we know that there are people who are destitute and dependent on charities to exist, to eat; and the impact of the proposed changes to cross-media laws. And we have just debated a reference for an inquiry on social security regulations today, which was knocked back but would otherwise have been sent to a committee for a proper inquiry.

I have just gone through a couple of the issues that would otherwise have been agreed to but were not because the government had the majority in this place. As I understand it, the situation is that the Senate Finance and Public Administration References Committee currently has no inquiry—previously unheard of—and it is the same with the Senate Economics References Committee.
Committee, which has no inquiry at the present time into a references matter.

What will be the effect of the government taking over the chairs of these committees? The chair writes the report—making this a very influential position—and can add or take out whatever he or she chooses. It is a very important role in that sense. The chair is also very influential in deciding about the hearings, the witnesses who will appear and, of course, the all-important recommendations. If the government decides that there is no case for the government to answer or it disagrees with a lot of the people who come before that committee, government members can decide on a report which does not take those into account and then the opposition is left with doing a dissenting report, additional remarks or something of that sort.

As I said earlier, a lot of the argument from the government, from those on that side, is that we are just returning to 1994. So I went back to have a look at what happened in 1994. As I understand it, at that time, a subcommittee of procedure was set up, which included former Senator Vicki Bourne for the Democrats, Senator Kemp, Senators Ray and Faulkner and former Senator Reid. They sat down and carefully considered suggestions and ways of improving our Senate committee system and came up with a proposal which was then adopted by the Senate. Even though the Labor Party was in government at that time, quite a lot of the suggestions came through from opposition members and they were adopted.

I came across the submission that was made to the Procedure Committee by coalition senators. It drew attention to the British House of Commons and how the system there worked:

... the chairs of specialist select committees, which are the equivalent of the Senate’s legislative and general purpose standing committees and somewhat equivalent to estimates committees, are shared among the parties by agreement—that is, the chair is shared amongst other parties. It continues:

These committees elect their own chairs and are free to choose any member of the agreed party. Before the membership of the committees is re-appointed at the beginning of each Parliament, an agreement is negotiated between the parties as to which parties will take the Chair of which committees. In the absence of agreement, the matter may be settled by the House, but the occasion for this has not arisen.

Chairs are shared in this way because they are seen as parliamentary positions and not government positions and are seen as such by the public. When chairs meet to discuss matters of mutual interest and coordinate the activities of the committee, all parties are represented. Thus, in this instance, there is a meaningful separation of powers between the Parliament and the Executive.

Sharing of chairs on standing and estimates committees in the Senate could enhance the parliamentary character of their work and improve the public standing as well as give representation to the non-government parties or the chairs’ group.

Its recommendations were:

The chairs of the Senate standing committee should be distributed among the parties in a way which reflects their representation in the Senate. That is all those on this side of the chamber are arguing for. We are not saying that the opposition should chair more of the committees than the government; we are saying: let us look at the fair proportion within the chamber and have it reflect that proportion. Just because you have a majority of one does not mean you take over the whole chamber.

The recommendation goes on to say:

Chairs of the estimates committee should also reflect party strength in the chamber. It does. The government has the chair of the estimates committee by virtue of them being
the responsibility of the legislation committees.

Chairs of the domestic standing committee should be divided equitably between the parties, chairs and composition of select committees should be continued by the chamber and there should be one government chair and one opposition chair for the two legislative scrutiny standing committees.

They were the recommendations of the coalition back in 1994. It makes a difference that they were in opposition and not in government. When you are in government you take whatever advantage you can grab, and that is exactly what this government has done.

Senator Kemp had quite a lot to say about the debate on this, and I think it is worth repeating what he said. He poses the question: why do we need this radical change? He says:

With the changes in the chairs of committees, the balance of incentives has been altered. We do not want to think ill of our opponents, but if one is a government chair of a committee it is not in the interests of the government or the Senate to pursue with great vigour a contentious issue which may cause embarrassment to ones colleagues and the government. I do not say that that has happened, but on the incentives basis there is not that need or desire to get out and investigate issues which may well cause some difficulty to the government.

On the other hand, as non-government senators will now be chairing committees there is more incentive for those people to show their spurs and to show what an effective committee system can do. This will cause a reinvigoration of the Senate committee system and a reassertion of what most people would understand to be the role of the parliament. We will act more effectively as a parliament. When we look back on this after a decade I will be surprised if we do not see this as radical reform—reform which will have major effects. It will cause problems to this government and to subsequent governments. Any change in the parliamentary system which requires governments to be more accountable has that effect.

The Democrats could not agree more with that coalition senator’s submission and, as I say, my former colleague Senator Bourne was one who pushed very hard for those changes to be made and some others, which I will mention in a moment.

This is hypocrisy writ large. We have got government members coming in and saying, ‘The system isn’t working from the government’s perspective.’ Too many committee reports have come out criticising government and challenging it over a whole range of issues. But to come in here and say, ‘It’s not efficient. It doesn’t work. Frivolous things are taking place’ is a nonsense.

What I am interested in in this whole debate is what happens next. I am pleased that this has been referred to Procedure and I hope that Procedure considers carefully some of these other matters. Many of them were not mentioned in Senator Minchin’s letter to leaders and whips the other day—leaders and whips, I might add, have become a farce as well because we are simply told what the government is going to do, and there is very little by way of negotiation, as has been the case for the last 12 months.

There was no mention about select committees: are we going to get rid of them; are the two extra committees that are going to be added to the current standing set of eight going to effectively be the select committees? I notice there is no inquiry under way that is using the select committee process. I feel very strongly that that is a very necessary part of the options that are available to us. In the case of the mental health inquiry, the select committee was the choice that we made and it allowed senators to opt onto that committee because they had an interest in that issue. I think that is a worthwhile option for senators. It is also the case that when we put that Senate inquiry forward, the community affairs committee already had many in-
queries under way and it would have been inappropriate for us to land another one on them. So there are often very good reasons for us to move to a select committee.

The government has criticised the fact that in this place we have now and again referred legislation to references committees. I think the minister said that this was one of the reasons why the government was now moving. There was a case, I remember, where we referred the federal environment laws to a references committee, and we did that because the references committee had some years earlier done a major inquiry into the powers of the federal government in terms of the environment. That was the precursor to the legislation which finally came through, so it was appropriate that that committee continue its work by looking at the legislation.

At the end of the day, there were something like 500 amendments put to that legislation which strengthened and improved it and with which the government agreed. I would like to hear from the opposition why that was a problem. What was problematic about that very rare instance of legislation being referred to a committee which had the expertise to do it?

It is not true to say that they are the same people on the two sets of committees; they are not. There are many committees where I am on the legislation committee as a participating member but not on the references committee, and that is true of other senators in this place. Another very important part of the change that was made in 1994 was to allow senators who were not full members of committees to be participating members. Senators in this place have used that provision very extensively and very appropriately so that all members of this place can opt onto a committee. They do not have voting rights necessarily, but they can be part of the hearings, they can be part of the whole process, they can receive the information, the reports and the submissions and they can, in every other respect, be a member of those committees. That is part of the democracy which is so important in this place. We heard nothing about participating members. Are we going to undo that as well? Is it going to mean that participating members will not get a look in; that they will have to wait and rely on the report of the chair to make up their mind on how to deal with legislation or even with references? That is a question that I pose.

The other big question for us is whether this is not really the beginning of an opportunity to reshuffle chairs more generally. Much has been made of the fact that legislation committees have come down with reports which criticise government. We have them frequently—which it is about immigration, whether it is about ASIO, whether it is about a whole suite of government legislation—and for people on this side of the chamber they have had disastrous implications, and for some on the other side as well, including the chairs of some committees. Is this a chance for the government to reshuffle those committees and get rid of the people who currently chair those committees and are not afraid to speak out? They are afraid to cross the floor, I might say, but they are not afraid to speak out when it comes to hearing the evidence and accurately putting it into the report, therefore suggesting that the bill either should not go ahead until the problems are resolved or should not go ahead at all, in some cases. I think that in the current climate that is a really courageous act and I congratulate those chairs who have done it. Mind you, it would be very difficult to ignore the evidence that comes before you, I would have thought, and to come to any other conclusion in those instances. Maybe this is just the thin edge of the wedge. Maybe we will see the government come
along and move those chairs to committees where they cannot do so much damage to government. Maybe we will see Senator Payne heading up the library committee—not to disparage the library committee; it is very important, but it does not have quite the same impact in terms of criticising government legislation as the current ones do.

I urge the Procedure Committee to very carefully consider this proposal. I hope they make a recommendation to the government that they toss it out and that it does indeed get tossed out. It does diminish the ability of the Senate to scrutinise government. It does diminish the ability of the Senate to conduct the sort of inquiries to which people feel confident to make submissions. And I think that was a good point made in the chamber last night: that people are going to be less likely to go to the effort of making a submission and turn up for the hearings, knowing that it is chaired by the government and that, possibly, if they are critical of the government position, their views will not be reflected in the report. I think that is a really significant consideration. People do regard the Senate process in terms of its inquiries and hearings as a really good one at the present time, but this is likely to lose favour, I think, with people if we go down this path.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (11.11 am)—This is an important motion. I have listened with interest to the contributions and I am now going to, probably more briefly than earlier speakers, sum up on behalf of the government. I appreciate that, especially for many of those who were in this place when the present paired committee system was negotiated in 1994, there is a high regard for and a strong attraction to the existing system. And I will refer to some of the specific constructive matters raised in this debate, particularly by Senators Ray and Faulkner, shortly. The fact that I will not be referring in detail at this stage to every speaker’s contribution is in no way to diminish the importance of their contributions. Of course, this is going to a Procedure Committee and we will be able to tease out those constructive suggestions at that point.

I acknowledge that the current Senate system is not all bad. However, I firmly believe that it faces some difficulties in both principle and practice and that it can be improved without destroying the positive features of the system. Every institution evolves and the Senate committee system is, in my view, no exception. After 10 years in this place and with the reality of a government Senate majority for the first time in 25 years, I and my colleagues believe it is time to propose some changes. The basis for seeking change is no great mystery, although some speakers have claimed to be completely perplexed by it. The fundamental point that does not seem to have been acknowledged by previous speakers is that a majority destroys the very rationale for the separate references committees. When there is a different political composition in the Senate, an opposition dominated references committee can play a distinctive role because its deliberations are backed by the Senate. When the governing party has the majority in the Senate, the rationale for separate or paired committees is undermined.

In those circumstances, it is logical to look at how the committee system should be better aligned to the composition of the Senate, as elected by the Australian people. Therefore, the proposal seeks to streamline and augment the system, not to gut it as claimed in this debate. How do we propose to do this? The proposal is that the 16 paired committees be merged into eight single committees undertaking the same functions and that the eight committees be expanded to 10. Most of the current committees, although
I acknowledge not all, have a commonality of membership and cover the same portfolio issues.

If I am correct in my assertion that the rationale for separate references committees has gone, at least while the government has a Senate majority, it is not unreasonable to suppose that the core functions of committees, such as the consideration of references and the examination of legislation, will continue. It is just that this will occur in one entity and not two. The expertise and resources on each subject will be concentrated in one committee rather than spread across two. The Senate as elected by the Australian people will continue to decide which matters are referred to committees and which matters will not be referred. This would be the same after the proposed changes as it is today.

Having thought carefully about this, I believe most of the arguments for retaining the existing paired system are rhetorical or at least based on a set of numbers that do not support these arguments—whereas I am firmly of the view that we can have a revamped Senate committee system that will meet the democratic requirements of accountability. I am not expressing hollow sentiments here, and I now move to address some of the questions and points that were specifically raised by Senators Ray and Faulkner during their contributions.

Senator Ray raised the issue of the government seeking to deliver a more efficient system and asked how much money would be saved and how many jobs would be lost. I would remind Senator Ray and others that ‘efficiency’ is not a synonym for ‘job cuts’. What we are talking about here is a system which delivers better results for the resources that are committed to the task. There is no reason to expect that proposals would be linked to staff reductions. Senator Ray also said that he wanted some reassurance that the government was genuinely open to consulting on these issues. I can say to Senator Ray and all of those interested in this question that we are seeking to implement these changes in a genuinely consultative way. That is why the Leader of the Government in the Senate outlined the proposal to party leaders and sought their input. That is why we have advised senators of the changes now—to allow the six-week winter recess for discussions. And that is why we have no objection to this matter being referred to the Procedure Committee.

Senator Ray acknowledges the government’s majority in this place and is well aware that the government could have simply moved a motion this week to implement the reforms. We did not. Senator Ray indicated he would like to discuss the number of new committees, suggesting that he thinks there should be eight rather than 10. He also raised the issue of the number of members of each committee. I think these are reasonable questions to ask and I look forward to hearing and considering his views when the Procedure Committee meets on this proposal in July. I also note his agreement to bring forward the reporting date.

Senator Faulkner also made a lengthy contribution and I would like to address some of the points he made. Senator Faulkner asked whether the committees would retain the powers of the existing committees: I can reassure the Senate that this proposal does not relate to reducing or diluting the powers of committees. The senator also asked for guarantees that there would be no further limitations on time for estimates and no restriction on their scope. With regard to time, as Senator Minchin and others have said, the proposal as it stands would lead to more time for estimates hearings and, with regard to scope—although Senator Faulkner may not like to acknowledge this—there are limits on
the scope of estimates hearings and they are set out in the standing orders.

Despite the fact that in many respects I think Labor senators would like to ignore the standing orders, they do set down limits on the scope of estimates hearings, and this proposal does not involve altering the scope—although I should add here that I think this debate is an opportunity to make the comment and remind opposition senators that, certainly from the point of view of a minister sitting there from 9 am to 11 pm on successive days of estimates hearings, they are in many respects excruciating. That is not because of the way in which matters are probed but because of some of the rudeness to witnesses and the rudeness to officials, and the fact that senators turn up late, and that witnesses have to travel and are often kept there for hours on end simply because those questioning them cannot get to the point. I think setting limits is appropriate because, if you expect officials to do their jobs, part of it is to also play the part and treat them with courtesy and try to minimise the amount of time they have to hang around for and attend estimates.

Opposition senators interjecting—

Senator COONAN—Having said that, there is no proposal to—

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Order, Senators!

Senator COONAN—withdraw or change the arrangements in relation to the scope of the estimates. There has been a lot of hyperbole and hysteria in this debate and it is obviously continuing this morning, despite the tone of my address, where I am trying to be constructive about how we will consult and deal with the detail. We have heard this proposal described as evil. We have heard it likened to parliamentary dictatorship. It is nothing of the kind. I do not believe, quite frankly, that much is to be gained by a slanging match. What does that achieve? I also, however, wish to say that, whilst I think a slanging match is not to be entered into here, lecturing the government as others have sought to do about its alleged shortcomings on a number of fronts is little more than sanctimonious windbaggery. Some speakers have talked, for instance, about some of the time management issues of this government. That is farcical, quite frankly, when you look at the way in which the Labor Party rammed bills through the Senate during their time in government. It is interesting that Senator Ray interjected during someone’s contribution yesterday about this, because the record for top guillotiner rests with former senator Bob McMullan, who guillotined 57 bills in one motion on 16 June 1992. He is closely followed by Senator Ray, who guillotined 52 bills on 13 December 1990.

So, rather than being sanctimonious about this, why not recognise that when you are in government there are time management issues that are important to actually achieve the passage of bills? I am not here cavilling about the fact that I have a list of 52 bills that Senator Ray rammed through during a guillotine session. It ill behoves those on the other side to criticise this government for getting through time-critical bills in a very measured way when time is an issue. All governments need to do that and it is entirely appropriate that that in fact happens.

There have been complaints about question time. I think the number of questions this week has been averaging six, which is what I think the opposition sought. One of the problems is that, if there are continual objections and if nobody can hear what is said, obviously, the time for question time becomes very limited. Half the time it is almost impossible to hear what is being said in question time. With a bit of decorum on both sides, I think we could get through a hell of a lot more. This is not a one-sided issue; both sides can contribute to a constructive ques-
tion time, and the opposition would get their questions if those kinds of matters were observed.

There have been other suggestions during this debate that, somehow or other, this is some grab from the Prime Minister’s office, which is absolute nonsense. I want to address this very briefly. The senators control the processes of how we see procedures and matters operating in the Senate. The Prime Minister has certainly not instigated this matter or sought to change any of these procedures; they are changing for the reasons that I have outlined.

Senator Faulkner told the committee in his contribution yesterday that the Senate committee system stands with the best accountability mechanisms in the world. I agree that Senate committees do play an important part. They do important work and they do play a very important role in the proper functioning of the Senate. Even from Labor’s perspective, however, latitudes towards the paired committee system were not always so positive. A lot of us have gone back and had a look at the debate in 1994. If we look back to 1994, we see that Senator Ray himself was quite ambivalent about the proposal. He said in the Senate at that time that there was no government ownership of the proposals. He acknowledged that this was not the perfect system—that is what he said. He went on to say:

I suppose these reforms arose out of the view of the opposition—I think shared by the minority parties in the Senate ...

It was certainly far from an idea that was welcomed wholeheartedly by the Labor government at the time. Senator Ray went on to say:

Even if I may be somewhat dubious about all the motives involved here, one of the good things about bringing in some reforms in the Senate is that more often than not a lot of good things emerge out of it.

So why couldn’t that occur out of this current process? I hope that Senator Ray and those opposite would bring the same positive sentiment to the reforms that we are proposing at the moment. I believe that he will. I believe that Senator Ray will play a constructive role in this matter. I am sure that we can come to an appropriate and workable solution in the Procedure Committee that fleshes out the detail of how the committees will be constituted and how they will work. I must say that I was gratified to hear both Senator Ray and Senator Faulkner proffer some sensible and constructive questions and give an indication to the Senate of their willingness to sit down, look at the detail and come up with an appropriate and workable solution. I hope that others will do so too, including Senator Hogg, who chairs the committee.

For the record, I repeat that the government is very happy for this matter to be referred to the Procedure Committee. I certainly welcome Labor’s acceptance of an earlier reporting date than originally proposed. I am quite certain that the reality of this matter and the reality of the numbers will mean that we can have an effective and functioning committee system, that the sky will not fall in and that, when we look at it on the next occasion, we will look back on these debates and wonder what all the fuss was about.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (11.26 am)—I rise to speak in reply to the motion I moved. I think Senator Coonan’s contribution is one of the most disingenuous I have ever heard. It is quite clear to everyone listening to the debate what this is about. It is not about the number of committees, it is not about the number of people on the committees, it is not even about referring this matter to the Procedure Committee. Senator Minchin made it very clear that the decision about the government
control of the committees had been taken. The argument about how many people are on them and how many committees there are is something that will be examined by the Procedure Committee, but Senator Minchin will not countenance the Procedure Committee reviewing the key aspect of this. Labor know that in referring this matter to the Procedure Committee. We wanted to observe the normal process of the Senate, but we understand the stark political reality. This is the abuse of the government’s power. This is the culmination of their use of their numbers.

Senator Coonan was not able to raise one principle underlying this move. There was not one suggestion that this was not somehow driven by a principle other than that one. I give her credit: on a couple of occasions, she slipped into the discussion the underlying principle of this—numbers and power. The government say, ‘We have the numbers; we’ll seize the power.’ That is all this is about. This is not about an evolution of the Senate process. The government says: ‘It’s an evolution. We’re taking it back to 1994.’ I do not get it. How could it be an evolution and a return to 1994? I thought John Howard wanted to return to the fifties. I suppose it is an improvement that we at least have him returning to 1994. This is about power. This is about numbers. This is about the exercise of raw power, and it is about abuse of that power.

Senator Coonan’s key argument is that, effectively, because the numbers have changed, we must change the committee system. Because they have the numbers, they must control everything. That is the contention being debated here. The contention is: should the government control everything because it controls—

Senator Coonan—You do not even follow the argument!

Senator Chris Evans—Senator Coonan, you have no idea what you are talking about.

Senator Coonan—I do!

Senator Chris Evans—You are not at a Labor Lawyers meeting now, Senator Coonan. You ratted then; we understand that. This is clearly about the argument that government control is good. That is the central proposition of the government. They say, ‘We should be able to control everything because we have the numbers of the Senate.’ That is what this is about. If you are to support the government contention, you have to support the contention that government control of the Senate committee system is a good thing.

We say it is not a good thing. We say there ought to be a check, there ought to be a balance on absolute government control. That is at the core of this. All the other arguments are completely disingenuous and fail to address the key issue: do you accept that the Senate should be controlled by the government? There are two points to that. The government has a majority on the floor of the Senate and, therefore, it can use its numbers to pass legislation. That is absolutely accepted by Labor. The balance of power in the Senate is the result of a democratic election, a decision by the Australian people, and we absolutely accept the result. We must accept some fault for the fact that it occurred, but we absolutely respect the result.

If the government could control its backbench, if it were not so racked by division and so unable to respect the Prime Minister that he cannot even get a resolution through his party meetings anymore—he is fearful of his backbench and that the unity of the government is dissolving and the decay of the government has set in—then the reality is that the government could pass any legislation in this place that it wants. Whatever our
view about that is, that is the reality. But now it wants to go another step.

What is the Senate best at? What is it best known for? It is known for its ability to review legislation, to review government action, to scrutinise and to hold government accountable. None of that overturns the numbers in this place. None of that undermines the government’s ability at the end of the day to pass what it wants to in the Senate, provided it can control its own people—and I can see that that is proving to be an increasing problem for it. But none of that goes to the question of the government’s capacity to control the Senate. It goes to what the Senate does best: its capacity to review, to hold government accountable and to scrutinise government actions which otherwise would not receive scrutiny and would not have the light of day shone upon them. What does that? The Senate committees do. The Senate committees provide that scrutiny, that accountability and that review.

What we and the minor parties argue is that that capacity ought to survive against the government’s majority. They still have the power in the Senate. They have the power to argue their case, to participate on the committees, to examine and review, to argue their intellectual case and to present their evidence, knowing that at the end of the day they will win inside this chamber. But what this does is to prevent that process. They will decide which matters are inquired into, what process occurs, when the committees meet and who can appear to give evidence. They will control everything, so the committees will be effectively emasculated. Their power to inquire into things that the government do not want to see examined will ensure that they are not examined.

Government senators who were then in opposition made that very point in 1994. Senator Kemp eloquently made the point that governments do not like to be held accountable. Whether Labor governments or Liberal governments, they do not like being held accountable. As leader of Labor in the Senate, I am prepared to concede that. All governments are guilty of that. The great strength of the Senate is that it has been able to hold governments accountable because they have not controlled the Senate’s committee process. The government, as I said, can pass its legislation and it can implement its will, but this measure prevents it from being scrutinised in doing that. It does not in any way undermine its legislative capabilities or its capacity to proceed as it wants to through the parliament, but it does force it to be accountable, to be reviewed and to be scrutinised.

I ask all thinking Australians to apply their minds to this. If you voted for the government in the last election, fine. If you support the government having a Senate majority, fine. I have no argument with that. That is a perfectly legitimate political view, and it was expressed by many at the ballot box in the last election. But I do not believe those people expressed the view that the government should not be scrutinised. I do not think they expressed the view that the government should be unaccountable. I do not think they expressed the view that the government’s actions should not be reviewed. And that is what is at stake today.

A lot of people who voted for the government in both the House of Representatives and the Senate are and should be worried about holding government accountable, because all governments, particularly when they are dying and in decay like this government, seek to entrench their power. They seek to isolate themselves from critique, they seek to isolate themselves from review and they seek to impose secrecy to prevent the basis of their actions being made public. That
is what this is about. So it is important for democracy. This change is fundamental.

We have been dying in the Senate from a death of a thousand cuts: restrictions on questions, restrictions on inquiries, restrictions on returns to order and restrictions on all our accountability measures. But this is a fundamental attack. This is the big one, because it seeks to stop us inquiring into the things that make government accountable. People have to ask themselves: is democracy best served by government being held accountable or by government being able to hide its actions, prevent review and operate in secret? That is what this, at its heart, is about. It is not about all these other issues about numbers on committees. It is about power, it is about control and it is about the government preventing review, scrutiny and accountability. So it is important.

I do not know why the government has been driven to this, other than the sense of decay. It might well be that it fears losing one senator at the next election and, knowing that it will not be able to implement these sorts of changes in the future, is trying to enshrine this in the rules. But, whatever its motive, when the government seeks to abuse its mandate or its functions by using taxpayers’ money on outrageous advertising campaigns, when it seeks to misuse grants and to use them politically rather than according to the needs of the Australian population, and when it seeks to hide donations to its parties by introducing secrecy provisions, or when it wants to appoint its mates to boards like the ABC or the Reserve Bank, those sorts of issues will never be scrutinised because the government will not allow it. We would not have had the ‘children overboard’ inquiry, the regional rorts inquiry or the inquiry into the GST on food.

Whatever your view about those matters—whatever your view on the outcome—the ability of the community to participate in that debate, the ability to have those issues reviewed, the ability to have those issues examined to the discomfort of the government was good for our democracy. That is the role the Senate has played; that is the role that has evolved. That is when the Senate is at its best. To turn back the clock to abandon that development, that evolution, that improvement in the Australian democratic institution of the Senate is a retrograde step driven by power, the need to protect power and the need to protect the government from review, accountability and scrutiny.

This resolution merely seeks to deal with the details. We know the government has made its decision. This seeks to work through some of the details that Senator Faulkner and Senator Ray have raised, which are important issues. But the fundamental issue is government control. At the heart of this is the decision of the government to further exert its control over the Senate by looking to emasculate the Senate references committees. It is a retrograde step. It is against everything that has been good about the development of the Senate’s role. People of all political persuasions ought to be fearful of this development, ought to regret this development and ought to support the reversal of this decision to provide for greater strength of the Senate in exercising its contribution to the democratic process in this country.

No government should be allowed to avoid accountability. It is not good for our democracy. It is essential that the role of the Senate is protected. As I say, whatever one’s political views, this is important for accountability and for the political process in Australia, and we ought to hold this government to account. So Labor supports this resolution. We will fight the government’s attempt all the way. We will fight this when it returns to the Senate next session. This is a classic case of power corrupting and absolute power cor-
rupturing absolutely. It is an abuse of the power of the government, and it ought to be opposed by all thinking Australians.

Question agreed to.

Original question, as amended, agreed to.

Meetings

Senator HOGG (Queensland) (11.40 am)—I seek leave to move a motion in relation to the powers of the Procedure Committee.

The ACTING DEPUTY PRESIDENT (Senator Brandis)—There being no objection, leave is granted.

Senator HOGG—I move—

The ACTING DEPUTY PRESIDENT—I am sorry, Senator Hogg. Senator Eggleston apparently denied leave but I did not hear him, so I am afraid leave is not granted.

Senator Chris Evans—Mr Acting Deputy President, I have a point of order. Apart from indicating that Senator Eggleston expressed his view after the resolution had been put, I think that if he actually seeks instructions he will find that there is agreement. I do not know whether the government’s arrogance extends to ratting on agreements, but perhaps you might ask him to reconsider his position.

The ACTING DEPUTY PRESIDENT—To avoid any confusion, I will ask again. Is leave granted for Senator Hogg to move a motion?

Leave granted.

Senator HOGG—I move:

That the Procedure Committee be authorised to move from place to place for the purposes of its inquiry into proposals to alter the structure of the Senate committee system.

In speaking to the motion, I inform the chamber that this motion arose out of discussions across the various interest groups in this chamber. As a result, I advise the chamber that as the chair of the committee I have now set down Monday, 10 July at the Commonwealth Parliamentary Offices in Sydney for the convening of this meeting to consider the referral that has been made to it this morning by the Senate. I therefore commend the motion to the Senate.

Question agreed to.

LAW ENFORCEMENT INTEGRITY COMMISSIONER BILL 2006

LAW ENFORCEMENT INTEGRITY COMMISSIONER (CONSEQUENTIAL AMENDMENTS) BILL 2006

LAW ENFORCEMENT (AFP PROFESSIONAL STANDARDS AND RELATED MEASURES) BILL 2006

First Reading

Bills received from the House of Representatives.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (11.42 am)—I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (11.43 am)—I table three revised explanatory memoranda relating to the bills and move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in Hansard.

Leave granted.

The speeches read as follows—
LAW ENFORCEMENT INTEGRITY COMMISSIONER BILL 2006

This bill implements the decision, announced by the Government in June 2004, to establish an independent body, with the powers of a Royal Commission, to detect and investigate corruption in the Australian Federal Police and the Australian Crime Commission, should it arise. To facilitate the detection, prosecution and prevention of corruption in Australian Government law enforcement agencies, the bill will establish the Australian Commission for Law Enforcement Integrity (ACLEI) headed by a statutory officer, the Integrity Commissioner.

The jurisdiction of the Integrity Commissioner and ACLEI will initially cover the AFP and the ACC. Other Australian Government agencies with law enforcement functions may later be brought within the jurisdiction by regulations. The focus on the AFP and the ACC does not reflect a perception that these bodies currently have a significant problem with corruption. Indeed, there is no evidence of systemic corruption within either body. However, these agencies play a key role in Australian Government law enforcement. Putting in place a regime of rigorous external examination now will ensure that the public can have continuing confidence in their integrity.

The Integrity Commissioner will be a judge or experienced legal practitioner, appointed by the Governor-General for a maximum term of five years. There is provision for an Assistant Integrity Commissioner, if necessary. The staff of ACLEI, including employees, secondees and contractors, will support the Integrity Commissioner in areas such as investigation, intelligence analysis and administration.

The Integrity Commissioner will conduct investigations of corruption issues in response to complaints from the public or another agency, references from the Minister, mandatory notifications or on the Integrity Commissioner’s own motion. The heads of the AFP and the ACC will be required to notify all instances of suspected corrupt conduct to the Integrity Commissioner, who will decide whether to investigate directly or to allow the agency concerned to investigate the matter. The Integrity Commissioner will focus on serious and systemic corruption but will be able to oversee an agency investigation.

Where corruption issues concern secondees from other agencies, such as State police, the bill provides for the Integrity Commissioner to deal with secondees’ home agencies and State integrity agencies to ensure that, if jurisdictions overlap, investigations are not unnecessarily duplicated.

If corruption allegations are made against ACLEI itself, the Minister will have the option to appoint a special investigator, with the same powers as the Integrity Commissioner, to investigate the allegations and report to the Minister.

A Joint Parliamentary Committee will oversee the work of the Integrity Commissioner and ACLEI, with particular reference to use of coercive powers.

The Ombudsman will have a continuing role in relation to the AFP and the ACC, except in dealing with corruption issues. This will enable two complementary approaches to investigation to be brought to bear on different types of issues. Together, the Integrity Commissioner and the Ombudsman will provide the Australian public with the guarantee that the conduct of the key Australian Government law enforcement agencies is subject to comprehensive external review.

I commend the bill.

LAW ENFORCEMENT INTEGRITY COMMISSIONER (CONSEQUENTIAL AMENDMENTS) BILL 2006

This bill makes amendments to a range of Acts as a consequence of the establishment of the Integrity Commissioner and the Australian Commission for Law Enforcement Integrity by the Law Enforcement Integrity Commissioner Bill 2006. The bill provides for ACLEI investigators to have access to the full range of police special investigative powers, including the capacity to use telecommunications interception, surveillance devices, controlled delivery and assumed identities. It also provides the Integrity Commissioner and ACLEI with access to a range of otherwise confidential information that is accessible to investigators from other key Australian Government law enforcement agencies. Lastly, the bill modifies
the Ombudsman Act 1976 to clarify the relationship between the functions of the Ombudsman and the Integrity Commissioner.
I commend the bill.

———

LAW ENFORCEMENT (AFP PROFESSIONAL STANDARDS AND RELATED MEASURES) BILL 2006

This bill repeals the Complaints (Australian Federal Police) Act 1981 and inserts a new part into the Australian Federal Police Act 1979 to modernise the complaints and professional standards regime within the Australian Federal Police. The bill also amends the Ombudsman Act 1976 to align the Ombudsman’s administrative review role over the AFP more closely with the role it has in relation to other Australian Government agencies.

In 2002 the Commissioner of the AFP commissioned the Honourable William Fisher, to review the AFP complaints and professional standards regime. Fisher found that the AFP’s current disciplinary system is inconsistent with modern management practices and the organisational needs of the AFP, and that its focus on punitive outcomes, adversarial structure and formalised processes has caused delay and unnecessary dispute. He recommended that the AFP should adopt a managerial approach to performance issues, backed by the sanctions of dismissal and criminal prosecution in serious cases. This bill implements the bulk of Fisher’s recommendations.

It provides for a new professional standards regime for the AFP which will categorise all matters raised in relation to AFP professional standards according to their nature and seriousness. Minor complaints will be dealt with by local managers, and may be addressed by educational and other non-punitive remedial measures. More serious complaints, including some corruption issues, will be investigated by the AFP’s professional standards unit and may result in criminal charges or a recommendation for termination of employment. Corruption issues will also be notified to the Integrity Commissioner under the Law Enforcement Integrity Commissioner Bill. Within this graduated approach, there will be scope for matters initially classified at a particular level to be transferred to another category as investigation proceeds.

The primary responsibility for the resolution of AFP complaint and professional conduct issues will rest with the AFP. The bill places an obligation on the AFP Commissioner to ensure that appropriate action is taken to deal with all AFP conduct and practices issues.

The bill revises the role of the Ombudsman. The Ombudsman will retain the capacity to intervene in serious cases and will have a review role in relation to the AFP’s administration of the new Part. The Ombudsman will no longer be required to be directly involved in the investigation of all complaints. This will enable the Ombudsman to focus resources on the more serious matters. The bill provides for review by the Ombudsman of the AFP’s handling of conduct and practices issues, both annually and on an ad-hoc basis.

Overall, these changes will produce a system that is less adversarial, faster, and significantly more efficient. This system will prove more satisfactory not only for the AFP and the Ombudsman but also for people who raise complaints about actions taken by the AFP.

I commend the bill.

Debate (on motion by Senator Ian Campbell) adjourned.

Ordered that the resumption of the debate be an order of the day for a later hour.

DO NOT CALL REGISTER BILL 2006

DO NOT CALL REGISTER (CONSEQUENTIAL AMENDMENTS) BILL 2006

Consideration resumed from 21 June.

In Committee

Bills—by leave—taken as a whole.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (11.44 am)—I table a supplementary explanatory memorandum related to the government amendment to be moved to these bills. The memorandum was circulated on 19 June.
Senator WONG (South Australia) (11.45 am)—by leave—I move opposition amendments (1) and (2) on sheet 4988:

(1) Clause 4, page 7 (after line 21), after the definition of services insert:

small business means a business which employs fewer than 20 people;

(2) Clause 14, page 15 (after line 26), at the end of the clause, add:

; and (d) it is used or maintained exclusively or primarily by a small business.

Essentially, the amendments seek to include the option for small businesses to opt out of receiving telemarketing calls. The fact is that small businesses are just as much victims of aggressive telemarketing as ordinary Australian families. We on the opposition side consider that the government’s decision to exclude small businesses from the scope of the bill is a major deficiency. Clearly, the government appears not to be listening to what small business wants.

The opposition has consulted with COSBOA, the Council of Small Business Organisations of Australia, in relation to this amendment. I understand that small business is firmly supporting the opposition’s proposal. Minister Coonan is not here but, in summing up in the second reading debate, she put what I have to confess I found to be a rather confused response to this issue. She said that they wanted to not exclude business-to-business transactions but that that was not possible under the legislation. Let us be very clear about this: including small business in the amendment Labor has proposed is simply allowing small business to opt out. It gives small business the chance to opt out. It is not saying to them, ‘You have to not get these calls’; it is saying that, if you are a small business operator and you want to opt out of receiving telemarketing calls, you can do so. Small businesses who want to continue to receive them obviously can.

We do not see any sensible policy basis for the government excluding small business from the protection against unwanted harassment through telemarketing. I make the point that there are a great many tradespeople in this country whose business contact is often also their personal phone—a tradesperson carrying a mobile phone when their mobile is obviously their business and personal phone. What will happen to them? Are they not given the option to opt out because they are technically a small business? I also want to consider somebody who is a hairdresser or a beauty therapist who has a small business. Obviously when you have an appointment the last thing you want is for it to be interrupted by somebody flogging a product to you over the phone.

Frankly, the advantages for small business significantly outweigh the disadvantages. In my speech during the second reading debate I quoted Tony Steven, the head of COSBOA, who said: ‘Constant calls from telemarketers are a time imposition for small businesses. We don’t want to restrict business-to-business marketing, but we should be protected from mass market telemarketing campaigns run by call centres in India.’ I find it rather extraordinary that the government is refusing to listen to the interests of small business in relation to this matter. It seems to us perfectly sensible that small business ought to have the opportunity to opt in to a regime which protects them from telemarketing.

The evidence from COSBOA indicates that that is an appropriate way to go. The government’s defence appears to be that there is business-to-business marketing. As I said, that is obviously an issue for the small business owner to consider. What we are talking about here is mass telemarketing, often from call centres offshore, and not sensible commercial contact between business
associates or potential associates. I commend the amendment to the Senate.

Senator STOTT DESPOJA (South Australia) (11.49 am)—The Australian Democrats will be supporting the amendments before the chair.

Question negatived.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (11.49 am)—I move government amendment (1):

(1) Clause 39, page 31 (line 13), omit subclause (2), substitute:

(2) A nomination, or a withdrawal of a nomination, must be in writing.

I am substituting for Minister Coonan. The proposed amendment implements the Senate committee’s recommendation that consent for a person to act as a nominee can only be provided in writing. The effect of the proposed amendment will be that the relevant account holder must nominate a person in writing before that person can either apply to have a number listed on the register or consent to receive a telemarketing call on a number that is on the register.

Question agreed to.

Senator FIELDING (Victoria—Leader of the Family First Party) (11.50 am)—Family First opposes schedule 1 in the following terms:

(1) Schedule 1, clause 3, page 34 (line 23) to page 36 (line 25), TO BE OPPOSED.

This is all about ensuring political parties and politicians are not exempt from the Do Not Call Register when someone puts their name down on the register. I think this is quite clearly something that would be in the interests of Australians and families that want to make sure their homes are free from nuisance calls.

Senator STOTT DESPOJA (South Australia) (11.51 am)—Obviously the Australian Democrats will be supporting the amendment before the chair. We have the same amendment, in line with our longstanding practice of not supporting exemptions under privacy law generally, and the Privacy Act specifically. For legislation such as the Do Not Call Register Bill, when it comes to the issue of exempting political acts and practices—in this case members of parliament and Independent members of parliament, so people from parties and candidates—we think that is an inappropriate exemption.

The reason I say that is not simply on the basis of so-called nuisance calls. I am not necessarily arguing that politicians are going to be violators of family or other time by making nuisance calls. Having said that, there are a number of Australians who maybe got a bit of a shock in the 2004 federal election when they returned home to get a message from the Prime Minister on their answering machines—although that might work for some people. So I guess this gets to the gist of the matter: I want to know whether Australians are going to be given the opportunity to select, on a register, politicians in the same way that this legislation is giving them the opportunity to say that they do not want to receive calls from a variety of other institutions, organisations and businesses. This is an issue of whether or not we have a double standard operating for politicians.

Also, the last thing I want to do is to be seen to be in any way curtailing the freedom of speech, freedom of political expression or freedom of opportunity of political parties, candidates and politicians such as ourselves to canvass, lobby for or advocate a particular position when it comes to the electorate. There may be people out there who are not necessarily keen to have unsolicited—we are talking unsolicited—phone contact from a particular organisation, or indeed politician. That does not mean that as politicians our
opportunities and avenues for contact with electors are curtailed in a way that means we cannot actually have any contact. We have direct mailing and a range of other opportunities through which we can lobby for or canvass votes, so this is not about denying political freedom.

I also want to point out that the Democrats’ position on this is consistent in a historical sense—and Temporary Chair Brandis, you and others would be aware of amendments we have moved previously. Indeed, the private member’s bill that I finally introduced today—I have been threatening to introduce it for a long time—actually seeks to remove the broad-ranging exemption for political acts and practices from the Privacy Act. So it is a consistent position in a historical sense. Let us face it: we have been on about this for a while.

However, it is also consistent—and we are aiming for logical consistency here—in that my concern is with exemptions generally. It is not because I do not think that there are particularly worthy organisations such as the ones that have been nominated in this bill, arguably in an arbitrary way, that are exempt from this legislation—be they religious, charitable, educational, government agencies and departments and, of course, politicians, Independent candidates et cetera. I have a problem with exemptions to these kinds of laws. I am not suggesting that there are not occasions when there may be an exception to the rule. But my basic belief in terms of privacy law or a specific piece of legislation such as the Do No Call Register Bill is that, when there are opportunities and when you have the capability to make a register as sophisticated as it can be, you do not need exemptions.

I know this is the line of the Australian Privacy Foundation, and it is not unusual that I would have a similar position. But, if there is an opportunity to make the register as impressive, sophisticated, tight as it can be, you do not necessarily need these exemptions in law. Let us face it: these are broad-ranging exemptions. When you look at the list of exemptions that apply with this legislation, it is broad ranging.

I want to make it very clear that this is not just about politicians, although the importance of this amendment, which does obviously deal specifically with politicians, is to set a standard and not a double standard. It is to make it clear that as politicians we do not accept and we do not expect special privileges. But, when it comes to other exemptions too, it is not good enough to say, ‘I don’t want politicians to be included but it’s okay for religious organisations or educational institutions.’ We all have different arguments that we could use in our favour. So the best thing is, surely, to create a very fair and equal law—a very equal piece of legislation.

It may be that the government’s advisers will suggest: ‘We’re not quite at the stage where the register is as sophisticated as it can be. We need some time to develop this.’ Then I would like the government to perhaps give us an undertaking—and I will accept an undertaking—that says: ‘These are early days. We’re just looking at how this register will work and develop. We will consider removing some of these exemptions as time goes on.’ I will take that for now, but I would like to see an expressed position on behalf of all political parties here today that says that giving politicians an exemption is not good enough.

I think politicians are now among the worst violators of personal privacy in this land. It is not because I do not expect us to be able to collect data or information about our constituents. It is not that we do not keep files or that we are not going to tag certain
people as maybe voting in a certain way or having a particular political leaning or direction. That is okay, provided that the national privacy principles in the legislation apply to that, so that very basic aspects of privacy law or theory pertain to that collection of information—that is, that we or our constituents and our citizens can access that information and can correct it if it is wrong.

I am not suggesting a curtailment of the practices that many of us practise or abide by. Certainly the major political parties are responsible for collecting a great amount of data. But I want to ensure that Australians have the chance to respond, to scrutinise and to correct information that is stored about them. I honestly think that, if we create laws that businesses, organisations and other people in the community have to adhere to, why the hell don’t we adhere to them too? That is the double standard. We should be similarly adhering to privacy law, especially when we expect other organisations in the country to do so. I do not think that the Do Not Call Register Bill really allows for politicians to be the exception to the rule. That exemption is particularly an affront to me.

But a logically consistent position would also suggest that any exemptions to a register of this nature have to have pretty convincing arguments and there have to be pretty exceptional circumstances. Given the wide-ranging exemptions contained in this legislation, as many people have pointed out—the Australian Law Reform Commission has made it clear too—Australian customers, consumers, citizens or whatever are still going to be subject to a large number of unwarranted and unsolicited phone calls at home as a consequence. So I urge the government to tighten up this register and minimise the exemptions. I know it is not going to happen today, but I urge you to consider at least removing this one because, even in terms of perception, it is a bad look for politicians.

members of parliament and registered political parties to be exempt from this particular piece of legislation.

Senator WONG (South Australia) (11.59 am)—I understand the government are opposing this amendment. The opposition also do not support the amendment. I do understand the concerns raised by Senator Stott Despoja. There are a number of reasons why we do not support it. One reason is that we have advice that there may well be some legal problems in terms of the potential prohibition of elected representatives from contacting constituents. This may well be found to be unconstitutional, given the High Court’s decisions which look to the implied right to political communication.

Also, there is obviously in any legislation the need to consider the various public interest objectives. In our view, there is a significant offsetting public benefit associated with politicians being permitted to contact their constituents for non-telemarketing related reasons.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (12.00 pm)—We are indeed opposing the amendment. I think that Senator Wong makes the case most eloquently. The Democrats do in fact have form on this. They are indeed consistent, as Senator Stott Despoja said. I recall when former Senator Bolkus was, I think, Special Minister of State some years ago and tried to bring in a law to ban political advertising. The Democrats, with the exception of Senator Sowada, supported it, as I recall.

Senator Stott Despoja interjecting—

Senator IAN CAMPBELL—I am sorry. The Democrats in the Senate, with the exception of Senator Sowada—to her great credit—voted with the then Labor government to ban political advertising. The then Liberal opposition suggested that that would
be regarded as a very strong curtailment of political communication and free speech, and we were successful in stopping that. Senator Stott Despoja says that we should write to constituents and communicate with them in other ways. But I am quite sure that, in the last week of a federal election campaign when the letterboxes of Australia threaten to burst, if you did a survey of voters and asked, ‘Would you rather ban political direct mail or ban political phone calls?’ everyone would say, ‘Ban the direct mail and we will put up with the phone calls.’

I think it is incredibly important that we draw attention to the objects of the legislation that Senator Coonan has brought here—a legislative act to control calls that can become a nuisance. It is a proposal that has been around for a while. I think that it is to her credit that she has finetuned it to the extent that it has bipartisan support—

Senator Wong—She’s adopting Labor’s policy.

Senator IAN CAMPBELL—As I said, it has been around for a while. This is a good thing. We do, in fact, agree on most things in this place. It is only the things that we do not agree on that get the newspaper and media coverage. It is a good proposal that Senator Coonan has brought forward, and it is very important that, in one of the greatest democracies in the world, we are able to communicate with our constituents using all forms of technology. It is incredibly important to have that level of availability. The reality is: if politicians abuse that direct communication by making phone calls that become harassing and a nuisance, then there is a consequence and that is that people do not vote for us.

I know that the calls that our party made at the last election were controversial, but the risk that you take when you use a new technique like that is that you get a backlash. That is always a risk, and I think it is quite self-enforcing. If you ring up as a politician and lobby someone, and you have upset their dinner, or you have upset their evening, or you have upset them because you have called them in the first place, then the risk is that you lose their vote. I think it is self-enforcing, and there is a substantial difference between phone calling for commercial activities and phone calling for the public interest, which is the context in which I put political phone calling—as well as phone calling by charity groups that seek to raise money for good causes. We will be opposing this amendment.

Senator FIELDING (Victoria—Leader of the Family First Party) (12.04 pm)—I have heard the discussions from both major parties on this issue. I think that if someone is going to go to the effort of putting their name on a Do Not Call Register, it is ludicrous that politicians should be treated as special in that. I heard in the second reading debate that it is okay for politicians to call for donations. I just think that if someone goes to all the effort of putting themselves on the Do Not Call Register, then having special treatment for politicians is really stretching the imagination way too far.

With respect to the constitutional issues that were raised, I would be more than happy to get a copy of your legal advice, or perhaps you could table the legal advice on that issue, I would be very interested to see it. I think it is questionable to say the least. I will leave it at that. I am hoping to have support on this motion to not exempt politicians and political parties from the Do Not Call Register.

The TEMPORARY CHAIRMAN (Senator Brandis)—The question is that schedule 1, clause 3 stand as printed.

Question agreed to.

Senator FIELDING (Victoria—Leader of the Family First Party) (12.06 pm)—by
leave—I would like to have Family First’s opposition to the exemption noted.

Senator STOTT DESPOJA (South Australia) (12.06 pm)—by leave—While I think it is obvious, I will do the same as Senator Fielding and just register the Democrats’ opposition, but I will not call for a division.

Bills agreed to.

Do Not Call Register Bill 2006 reported with an amendment and Do Not Call (Consequential Amendments) Bill 2006 reported without amendment; report adopted.

Third Reading

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (12.07 pm)—I move:
That these bills be now read a third time.

Question agreed to.

Bills read a third time.

FAMILIES, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS AND OTHER LEGISLATION (2006 BUDGET AND OTHER MEASURES) BILL 2006

Second Reading

Debate resumed from 13 June, on motion by Senator Kemp:

That this bill be now read a second time.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (12.08 pm)—I have pleasure in speaking to the Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Bill 2006 on behalf of the Labor opposition. It implements various 2006 budget measures, certain other measures associated with the 2005 budget and the government’s welfare changes. It also introduces into legislation a new disaster recovery payment. Labor will be supporting these measures, which the government plans to implement as of the first of next month. They do provide much needed financial assistance to Australian families.

Labor is pleased that the government has acted on some concerns raised by Labor at the last election with regard to the family payments income free threshold and the large family supplement and that it has introduced some changes in these areas. The principal measure in the bill increases the income threshold for family tax benefit A from the current $33,361 to $40,000. This will be subject to annual CPI indexation from 1 July 2007. The 2005 budget included a measure to increase the threshold to $37,500 from 1 July 2006. This measure supersedes that. As a result, half a million families will receive, on average, an additional $37 per fortnight as of 1 July. The measure is costed at a little over $993 million over four years. As a result of this change in the threshold, more than 40,000 families will also become eligible for the low-income health care card.

At the last election, Labor proposed an increased threshold for the commencement of the withdrawal of family payments. Labor is pleased the government has recognised that the current income threshold is too low and that in the legislation it has picked up Labor’s concerns. Families are under growing financial pressure, and this increased assistance is welcome and has Labor’s support.

The legislation also makes a significant change to eligibility for the large family supplement. Currently the supplement of $248 a year is paid for the fourth child and any subsequent children in each family. The change under this bill means that the supplement will be paid to families for the third child and any subsequent children. This will cost about $497 million over four years. Many large families face significant financial stress, and this measure should provide some assistance.

At the last election Labor proposed doubling the large family supplement to what
then would have been $489 per child. Under the change in this legislation, a family with four children will receive the supplement for both their third and fourth children, and therefore their benefit will be doubled. Families with more than four children will, of course, receive the extra $248 now paid for the third child. They will not, however, receive the boost that would have come from Labor’s proposal to double the payment. Nonetheless, we are pleased the government has followed our suggestions and is providing some additional assistance for large families.

The bill also extends eligibility for the utilities allowance to people who are under the age pension age but are in receipt of the mature age allowance, widow allowance or partner allowance. This will provide the individuals affected with an additional $102 per annum. The cost over four years is in the order of $27 million.

The legislation introduces a new disaster recovery payment into the social security law. Previously disaster recovery payments, such as to those affected by Cyclone Larry, have been made on an ad hoc basis. This new legislated payment will be non means tested, nontaxable and paid to Australian residents affected by an eligible natural or non-natural disaster domestically or overseas. The payment will be $1,000 for an adult and $400 for a child. The measure will take effect as of 1 December this year and it is estimated to cost about $13 million over four years. Of course, one is never sure how much the payment will be required.

The bill also seeks to implement a maintenance income credit from the first of next month. This allows individuals to claim a previous year’s maintenance income free area for family tax benefit part A on late child support payments received in the current year. Therefore, individuals receiving backdated child support payments from a previous year do not face a reduction in their current year’s FTB A payments. Credit for this probably goes to Senator Patterson, the former minister, who I know was very strong on the subject. I understand this will cost about $52 million over four years.

The bill introduces two changes with regard to severely disabled people. The first is an extension of the qualification for the carer payment to carers of children under 16 years with a severe disability. This will exempt current recipients of the parenting payment who meet the qualification under the legislation from the activity tests applied under the government’s Welfare to Work changes. Another measure will allow families with the financial means to establish trusts to provide for the future care and accommodation of a family member with a severe disability. The value of the trust can be up to $500,000 without affecting the person’s pension eligibility. Gifts to the trust, to a total of $500,000, from parents or immediate family members will not affect the donor’s eligibility for social security or Veterans’ Entitlements Act payments. I think this is a measure that starts us on the process of reforms that have long been needed to assist people caring for people with disabilities and providing for their long-term future.

The bill also implements the recommendations of the Uhrig review with regard to the governance arrangements of the Australian Institute of Family Studies and also seeks to make minor technical amendments to the social security law. I understand Senator Bartlett of the Democrats has proposed amendments to this section of the legislation in reference to the appointment of the institute’s director. Unless the government convinces us otherwise, Labor will be supporting the Democrats’ amendments.
In summary, Labor is pleased that the government has followed some of the directions that Labor set in addressing some of the areas of need with regard to the income cap for family payments and the large family supplement. We indicated at the time of the budget our support for these measures and our willingness to ensure their passage in time for early implementation. I conclude by reaffirming that Labor will be supporting the bill. (Quorum formed)

Senator SIEWERT (Western Australia) (12.17 pm)—I rise today to make some comments about the adequacy of the provisions in the government’s budget approach to family and community services through the Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Bill 2006. I have deep concerns that the government has missed an opportunity to address the significant issues that face many of the most disadvantaged in our community, and I will go through some of those shortly. First, I want to quote the Welfare Rights Network from budget night, when they said:

... we can at least be thankful for the small mercy that there are no new cuts or significant reductions in payments or conditions this year.

I am deeply concerned that that is a pretty sad indictment of the so-called lucky country. Some went on to say:

... whilst this Budget provides large tax relief of $119 per week for a person earning $2,900 per week, payments for parents and for people with disabilities who will be forced onto Newstart Allowance after 1 July 2006, will be slashed by $29 and $46 a week respectively. We should also recognise that the 30% of individuals who have insufficient earnings to be taxed will gain no benefit from these tax cuts.

There are two million people in this country who do not have an acceptable standard of living. Some are born into families that are struggling; others are people whose lives have been turned upside down by illness, disability, loss of a job or family separation. I believe that, in a country with a $10.3 billion surplus this year, we should have been investing that surplus much more wisely than by delivering tax cuts to people who generally have enough money to get by. We could be doing more to help people who do not.

We have been told time and time again that the ageing of our population makes the age pension system unaffordable. We have been told that we must instead provide generous tax concessions to superannuation so that Australians can fund their own retirements, but modelling done by the Greens shows that for middle- and high-income earners the cost of tax concessions we give to superannuation is actually higher than the costs of providing for an age pension.

The government spent billions in the budget increasing the retirement incomes of superannuants but did nothing to increase the age pension, which many retirees currently survive on. Superannuation has a role to play in topping up the age pension, but an adequate age pension is and will remain the foundation on which Australia’s retirement income system is based. It is the generosity of the age pension that should be the government’s priority, not the tax concessions granted to Australia’s wealthy retirees.

How much extra personal income tax revenue would the government have collected if they had done things differently? Our estimates are about $9.3 billion for the 2006-07 financial year and $10.1 billion in 2007-08. If they had also done things differently with superannuation, we calculate there would be another $2.5 billion and $3.3 billion in the following financial years. This is a significant amount of money that I argue would have been better invested in dealing with some of the major issues of disadven-
tage that we have in this country and in helping others who have fewer advantages in our society.

Let us look at carers. Estimates by Access Economics suggest that carers contribute about $30 billion per year to our economy through the care that they provide. You would have thought that we could invest some of that back into supporting carers and the people who they care for. For example, with regard to supported accommodation, we unfortunately do not know the numbers of people with unmet needs in this country, because various states and the Commonwealth do not collect the data. We have a bit more of an understanding in Western Australia, and it is hundreds and hundreds of people who have unmet needs for supported accommodation, and I understand that it is higher in various states around the country. We should be investing in providing that accommodation.

There is also a crisis in respite care, particularly in regional areas. I heard just yesterday a story of a mother in Esperance who ended up going and sitting in the local MP’s office until she got respite care for her son. Surely, in a country awash in surplus, we could have been investing that money in providing more supported accommodation and respite for people with disabilities and, of course, for their carers. I do not think that is too much to ask. Then we look at what happened just a couple of months ago when the government moved to reduce back pay for people caring for children and people caring for adults, reducing it from 52 weeks and 26 weeks respectively down to 12 weeks, for a saving of $106 million over four years. The government gave a little bit back with their bonus payments for carers, but that does not make up for the money they took away in back pay—another thing they could have been investing in through the budget to family and community services. ACOSS, the Australian Council of Social Service, has estimated and recommended that a boost of at least 20 per cent should be made to the carers budget.

If we look at child care, we see that there was money in the budget for child care. While I think money invested in child care is a good idea, and it was a start, it did not go far enough and it did not address the issue of long day care, the quality of care or the provision of capital grants to community based day care centres, which provide a high quality of care and are worthy of support by the government.

A particular area I have deep concerns about—and which I know a wide section of the community has concerns about—is funding for affordable housing. There was not a significant increase in funding. I think it is fair to say that there is a looming national crisis in housing affordability. I think the benefits of investing in affordable housing, public housing and community housing are manifold. A recent Australian Institute of Health and Welfare report on the value of community housing and public housing articulated and argued—just by the statistics—a very good case for why public housing and community housing are so important. This type of housing is provided for people on low incomes, where some people are paying up to 30 per cent of their income on rent and are forced to live in low-rent areas where jobs and transport are difficult to access. Providing housing support for people in those areas is particularly important.

The stock of social housing under the Commonwealth-state agreement has fallen 32 per cent in real terms from 1996, resulting in an 11 per cent fall in stock between 1996 and 2005. Over the last five years the number of households assisted each year has fallen from nearly 40,000 in 2001 to fewer than 28,000 in 2004-05—a decline of more
than 30 per cent. While there is some growth in funding in the agreement over the next two years, this will be at less than half the rate of the expected rate of inflation. This means reduced funding for social housing in real terms and will leave more than 200,000 social housing applicants wondering if they will ever have an affordable place to live.

When we look at the statistics in the reports, we see that 81 per cent of main income earners in public housing were people on a government pension or a benefit of some sort—clearly in need of low-rent housing support. Forty-one per cent of the tenants were aged between 45 and 64, and 18 per cent were aged between 65 and 74—again, a section of our population that clearly needs housing support. With both public housing and community housing, it was very clear from the statistics that, through this support, people’s quality of life had improved. Many people said that it had allowed them to find a better job and to find space and time to train and to improve their qualifications. They also said that they felt that it had improved the quality of their life significantly and had turned their life around. Fifty-seven per cent of people living in the housing said that they could not afford private rent and that this housing provided secure tenure and promoted a sense of community. And isn’t that what we are trying to build in our country—a sense of community? So I am very disappointed that more money was not invested in housing.

Then we move on to the issue of Indigenous housing. The statistics show—and I have not heard these statistics disputed—that around $2.3 billion to $2.5 billion needs to be invested in Aboriginal housing to bring it up to any level of equality and standard that non-Aboriginal Australia would expect. Of course, we did not see that level of investment in Aboriginal housing. We are still seeing figures of between 15 and 20 people being crowded into three-bedroom, one-bathroom houses in Aboriginal communities. How anyone could expect or demand—as some people are doing—that Aboriginal communities turn their lives around, when they are living in such absolutely atrocious circumstances is beyond me. We need to be seriously investing in Aboriginal housing.

Then there is the issue of Aboriginal health. We all know the appalling statistics in Aboriginal health—the 17-year age gap and the worst statistics in many of the health areas. There was a modest $25 million increased allocation to Aboriginal health. This goes nowhere near the estimated $250 million to $570 million that is needed per annum to deal with primary health, and no overall plan was articulated. Tom Calma, in one of the many excellent speeches that he has given recently, said:

... how ironic it is that the Commonwealth Government has committed to achieve the UN Millennium Development Goals by contributing to the international campaign to eradicate third world poverty by 2015, but has no similar plan to do so in relation to Aboriginal and Torres Strait Islander peoples in Australia.

That is right: there is no plan for dealing with these appalling statistics. Tom has put forward a plan to reach equality of health statistics within a generation. As I said in this place the other day, unless we start now we are not going to achieve that. So we need to clearly articulate a plan with milestones and goals about equity of access to health infrastructure and standards to meet the equality of health goal within a generation. To do that requires a huge investment. It has been estimated, as I said, at between $250 million and $700 million per annum, and we get a measly amount in this budget to deal with this issue. It is an indictment: where we have a budget surplus of over $10 billion, I argue that, instead of investing in inappropriate areas, if we were not providing the tax cuts
we would have a far bigger surplus to invest in our community and in family and community services.

There are many other areas that we also need to be dealing with in Australia. There are significant issues around training, particularly now that the Welfare to Work package is coming in. There isn’t adequate training and support for the people that are being forced onto Newstart. It is not only lowering their incomes but putting them into situations where they have to take a job, any job, even if they are only earning an additional $1.66 per hour. I do not believe it is an appropriate way of helping our community. The best way to help the least advantaged is to provide additional training and support but, unfortunately, that is not available under the present system. We have a significant level of poverty in this country and, again, the most disadvantaged in our community are being ignored. We have no overall plan for dealing with poverty in Australia. I would have liked to have seen in this budget a significant investment in that area.

Overall, I think where we have invested our surplus and the decisions that we made on tax cuts have been misdirected. They are not supporting the most disadvantaged in our community. They are not fair. They are not caring and they are not aimed at providing a decent life for all Australians. This budget needed to look at all of those key areas and beyond what I have outlined—I have just touched the tip of the iceberg. I note that the Australian Council of Social Services, prior to the budget, provided a very comprehensive plan about where funding should be invested. They also identified areas where some of that funding could come from. The government does not need to have that identified; it knows it has a $10 billion surplus. I do not think that community groups should be forced to identify areas in the budget where the money should come from. It is there. We need to spend it appropriately and invest it in Australians so that we can have a much fairer and more equal Australia.

**Senator BARTLETT** (Queensland) (12.33 pm)—My apologies for missing the call previously. The Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Bill 2006 before us is not one the Democrats oppose. Many of the measures contained within it will be of benefit to Australians and Australian families. The key issue is not so much what is in the legislation but what is not in it, and what damage has been and is being done to Australian families through other family and community services and social security related legislation in recent times. I have spoken on this a number of times in this chamber, including to some extent earlier today. I will not repeat myself in depth beyond saying that small measures, though welcome, such as are contained in this bill do not negate the overall harm that is being done to tens of thousands of Australians and their children as a direct result of other changes that the government has made.

The different measures such as the one-off raising of the income test free area for the family tax benefit part A, the expanded access to the utilities allowance and allowing access to maintenance income test free areas for previous years are all welcome. The expanded access to the carer payment for carers of a disabled child is also welcome as far as it goes. I think this is an area where a lot more could and should be done to assist carers. The government members of the Senate recently passed a change that reduced the amount of initial payments that many applicants for carers allowance would first receive when they applied for the allowance. That is something that was undesirable. The countermeasure, if you like, of expanding access to carers payment is welcome but it is an
example of giving with one hand and taking away with the other. I believe the previous change was not merited; it was simply a bureaucratic measure taken for no reason other than that it could be and it would be a little simpler in an administrative sense. It certainly was not done with the interests of carers in mind.

As I have said in this place a number of times, if there is one group in the community that needs more assistance through income support and other welfare measures it is carers. Carers carry an enormous burden and, by and large, they do not get the level of assistance they need. I do not put all of the responsibility and blame for that on federal governments. There is a case to be made that a number of state governments could be doing a lot better in respite support and other forms of assistance for people with disabilities and their carers. I hope that the current Senate inquiry into the Commonwealth-state disability agreement will enable it to operate more effectively in the way that it should and that it will get better value for money for the taxpayer and particularly for the people that it is intended to help. Of course, carers are inextricably intertwined with many aspects of how that agreement operates.

With legislation like this that contains measures that will provide some assistance to people—and, naturally, it is going to be the case that this legislation will be supported; it is fairly rare for such legislation to be opposed by people in the Senate—we need to ask the question: is this the best targeting of resources? Personally, I am not convinced that expanding access to the large family supplement from families with four or more children to families with three or more children is the best targeting of resources. I am not saying it should not be done, and I am certainly not going to vote against it. However, I do wonder whether that is the best use of taxpayers’ resources, if we are looking at targeting money towards people in need in the community.

I do not agree with providing extra financial incentives for people to have children. I think there are plenty of people in the world, frankly. We do not need to be bribing people to have more of them just to receive extra financial assistance. That should not be interpreted, I hasten to add, as not providing assistance to people with children. But the suggestion that we should be providing extra incentives for people is one that, frankly, I think we can very much do without. The notion that has some carriage lately that women should have an extra child for the country is recycling the old ‘populate or perish’ notion. It is a very simplistic approach to our demographic situation and our future demographics. It is a very simplistic approach to our economy and our society to feel that we need to be doing that. I do not believe we do need to do it. I do not begrudge people who do get that assistance. However, I do not think it is the best targeting of taxpayers’ resources through the welfare system.

Having said that and given the amount of other measures the Senate has to get through today, I will not speak any further. I do think there is a lot more than just the measures in this bill that we need to focus on, and it is those aspects of how that operates that the Democrats will keep paying attention to.

Senator PATTERSON (Victoria) (12.39 pm)—I am not always delighted to speak on issues, but today I feel like I can say, ‘Oh, what a feeling.’ This will be a really great day when this Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Bill 2006 goes through, particularly in regard to the part of the bill that deals with special disability trusts. It will be a great day for people with adult sons and daughters with a disability. When I first went into the portfolio of
Family and Community Services, a large number of parents came to me and told me that they wanted to help prepare for their children’s future after they were no longer able to care for them or after they died. That was their greatest concern. What has happened and has slowly crept up on us is that people with disabilities are living longer. I have an aunt who has a sister with Down syndrome who is 71. When I was at university doing developmental psychology, we never anticipated that people would live that long. There was no concept that children with a disability would outlive their parents, and they are.

While these people attend business services, which were once called sheltered workshops, they talk to each other about their concerns. Often parents have taken on the responsibility of a son or a daughter of another person they met through a business service whom they have known for 20 and 30 years. That is how involved they become with each other’s children. They said to me that one of the things that they found difficult was that, if they provided for their children, they were disadvantaged through the assets and means test of the disability pension. If they did not have testamentary capacity to manage their own affairs, then any money put in a trust was deemed to be an asset for the purpose of assessing the pension. So they were dissuaded from doing that. What do they do? A financial adviser would say, ‘Put this much money in’—so they do not lose the pension—‘and give the rest to somebody else to look after your children.’ You know how long that would last. Sometimes nothing thins blood faster than money. I have seen that happen in my own family with the disabled family member with Down syndrome.

I went to the Prime Minister and said, ‘I am very concerned about this.’ He said, ‘Go away and fix it.’ I want to put on the public record how much assistance the Prime Min-

ister gave me and how much support he gave me in this because he saw that it was unfair and that it needed to be fixed. He took a particular interest in this. I want to say to him, ‘Thank you very much.’ I know that the parents of sons and daughters with a disability are very grateful too for the very personal interest he took in it.

The $200 million measure that we announced last October got 1¼ inches in the press. There was no interest from the press whatsoever. Yet, if I had to say what was one of the best things I did in the whole time I was in the executive, which was seven years, this would be one of them. It is not going to change an election. It is not going to win a mass of votes. But it is going to make an enormous difference for those parents who have cared for their children for 20, 30, 40, 50 and sometimes 60 years, like the 83-year-old with a 60-year-old son, who was cared for every day of that person’s life. They were disadvantaged through the assets and means test.

Today, we have a measure that is going to make a difference. People were crying when we made the announcement. They came rushing across to me in the airport lounge and threw their arms around me, saying what a difference this is going to make to their lives. That is how important this part of the bill is to that small group of people. A $200 million package means that they can have a $500,000 trust that does not affect the assets test and does not affect the income test, if the income is used for their care. The income for that care can be used, for example, on a TAFE course, in activities of daily living, on learning how to use transport and some of the things that will help them to be more independent in their later life, and it can be used for care for them in accommodation or care for them in terms of personal assistance. Not only that but, when families gifted
money, they were disadvantaged because they would lose the pension.

I want to give you an example of someone who came to me. This woman bought a house in the fifties for £15,000, I think, in the inner city of Melbourne and now it is worth about $600,000. She is in her 80s and her son has an intellectual disability. She wanted to downsize by moving to a retirement village. She wanted to put $250,000 into a retirement village and actually keep $50,000 as a buffer to pay for extras and still have her age pension. She had no income other than her age pension and his disability pension.

She wanted to put $300,000 into a group home and then be able to leave her share of the retirement village to him, her only child. What happens? He loses his disability pension because he exceeds the asset test; she loses her pension because she has gifted more than $10,000. So what does she do? She stays in the house until she cannot manage any longer or she dies, and he then goes onto the top of the emergency list for disability accommodation under the state program, taking the place of somebody who is maybe doubly incontinent and cannot feed themselves, and leaves a parent in their 70s managing that sort of situation. She wanted to make sure he was looked after, and with this measure she can do it. She still gets her age pension in the retirement village and he will still be able to draw the disability pension. That, for her, she said, was life saving. So it is a very important measure.

Once the announcement was made, I appointed an advisory group to provide advice on the policy detail of the measure. I want to extend my appreciation and the government’s appreciation to the chairman of that group, Mr Ian Spicer, who has an enormously long record in chairing the Australian Disability Advisory Council and has been very involved in a business service called VATMI Industries; Mr Tony Blunn, also a former secretary of the Department of Social Security, who brought to bear his knowledge and understanding of social security; Mrs Sue Boyce; Mr Ian Gresswell; Mr Alan Swan; and Mrs Judy Brewer Fisher. Some of those people have financial expertise, others business expertise and some of them have children with a disability. I want to thank them for bringing to bear their professional and, as I said, in a number of cases their personal experience to this task. I particularly thank Mr Spicer, who chaired that committee, and Mrs Brewer Fisher, who really brought this issue to a head when she was chairing Family Carers Voice. She spoke to the Prime Minister about some of the issues and helped me to bring to his attention the concern that we had about the assets and means test.

I visited parents in Sydney, in WA, in Brisbane, in Tasmania—in fact, all over Australia—and talked about this issue. They raised with me the fact that they wanted to use the resources they had to provide for their children, but they were being disadvantaged. This bill means people can actually make some plans. It will enable families to provide for their children and have peace of mind, and it will make the system fairer and less discriminatory. It was very discriminatory in that if you were physically disabled but could move into and own your own home, or be left a home, then you did not get affected by the assets test, but if you could not manage your own affairs and your assets were held in a trust then you lost your disability pension.

A word to my Senate colleagues from every state: our job now is to go around to the state ministers and say, ‘You could use this very cleverly.’ The states could integrate this measure into a policy that they can put in place under the Commonwealth-state disabil-
ity agreement, assisting both families who can provide accommodation for their children and those who do not have the means to do so, and marrying those two. I have to say there is one minister who cottoned on to this measure very early—in fact, before I announced it; I thought he had been reading my papers!—a minister for whom I have great respect, and I hope that I will be able to work with him and show that we can actually integrate these two policies to get greater leverage out of this measure. If the states are smart—some of them are not so smart—they will be able to do this.

The other thing that ought to be addressed, particularly in New South Wales and Queensland—and senators from New South Wales and Queensland ought to be onto this—is the ideological hurdle or block in the departments which means that any facility with over three or four people is considered an institution. Older people can choose to live in a retirement village with 350 people. Older people can choose to live in a smaller retirement setting of 100 people. Older people might choose to live in an Abbeyfield house with 10 people. They might choose to live with three other people or they might choose to live alone. Why can’t people with a disability have the same choice?

In Bega Valley and down in Warragul we have two facilities which each have more than four beds, perfect facilities for respite, but they cannot be used because the state says they are institutions. We have to get over this. We have holidays in motels with 300 bedrooms; nobody tells us they are ‘institutions’. Yet in Warragul people cannot have respite in a place with 12 beds because it is seen as an institution, a refurbished motel. So the states have a long way to go in becoming more flexible. They should not have thrown the baby out with the bathwater when we went from institutions to community care, thinking anything with over four beds was an institution.

We have a group of parents in Melbourne who want to use this measure to build a facility for their young people, and they were told that if it had more than four or five beds the state would not deliver any services to it. Get a grip! With the parents being able to contribute $200,000 each—and they were actually gifted the land—for $1 million they could build a very nice facility with possibly a bed-sitter or a one-bedroom apartment for a caretaker, using some of the money from the trusts to pay the caretaker to manage these people. It would not work with three beds, but it might work with 10 in an Abbeyfield type structure. So I would implore my colleagues, particularly those from Victoria and New South Wales, to shake the state governments out of this ideological block that means that people cannot have that sort of choice. If they do that, this measure will have much more leverage. So this is a very important measure for people.

I want to draw people’s attention to page 36 of the explanatory memorandum where it looks at division 3 of this bill which is ‘attrition of assets of special disability trusts’—and a number of parents are going to be looking very carefully at the Hansard of this because they are very keen on this measure: Subsection 1209Y(4) provides that the value of any right or interest of the trust in the beneficiary’s principal home is disregarded for the purposes of working out the value of assets owned by the trust. This is consistent with normal social security rules, under which a person’s principal home is exempt from the assets test.

That is an amazing measure. That was not something I expected to get. It is tremendous news. There are people in Western Australia, Victoria, South Australia and Queensland that I know who are already planning to use this measure. It is going to assist in removing that ideological block and in accommodating
young people with a disability, getting them away from ending up in a nursing home when they are too young. If the states use a bit of creativity and a bit of flexibility and do not have that ideological block, there are huge advantages for them in using this measure.

I do not often blow my own trumpet, but I want to today because I am so excited. When it went through cabinet, I went home walking on cloud nine.

Senator Ferris—So you should be!

Senator Patterson—Thank you very much, Senator Ferris. I want to give credit to the staff of the department. It has not been easy. We do not want to drive a truck through this. We all know that, when you have a measure, there will be people who try to scam it. I will be watching very closely and I will be appalled if anybody tries to scam this measure. This measure is meant for people who have limited or no testamentary capacity and who cannot manage their own affairs. It is also to help parents plan and give them peace of mind. It is meant for the 83-year-old that I met in Warragul who was caring for his 56-year-old daughter with Down syndrome having grand mal seizures, the mum in the inner western suburbs and the father and mother in Western Australia who want to make sure their 33-year-old son, who has been in a special school and is now in a business service, is provided for. I can go through family after family who have been hanging for this measure for a long time. I ask people to make sure that we watch very carefully so that people cannot drive a truck through this measure. That is what I asked the advisory committee to do. I have a couple of comments I want to make in the committee stage about the criteria for being in or out of the trust. I commend the bill to the Senate.

Senator Santoro (Queensland—Minister for Ageing) (12.54 pm)—I thank all senators who have spoken, particularly Senator Evans and Senator Bartlett for their supportive comments. The government appreciates the support of the Democrats and the Labor Party in relation to this bill. In particular, I would also like to say how much I appreciated listening to Senator Patterson make her contribution. I just remarked to Senator Ferris, the Government Whip, how wonderful it is to listen to somebody who obviously has such a strong commitment to this vital area of government policy. I would also like to acknowledge her great contribution regarding the contents not just of this bill but of other bills associated with the Families, Community Services and Indigenous Affairs portfolio. I am sure that everybody would acknowledge the sincerity, the hard work and the insights that Senator Patterson as a very successful and determined cabinet minister brought to bear on initiatives such as those that we are debating here today. It is a pleasure to be able to listen to people who see their commitment bear the fruit that we are witnessing here today.

This is a good news bill because it contains several 2006 budget measures along with further important government initiatives. In a continuation of the government’s program of support for Australia’s low- and middle-income families, many of the measures from the 2006 budget increase family tax benefit part A entitlements. Notably, families will now get more family tax benefit part A through an increase in the income-free area to $40,000, up from $33,361 in 2005-06. That is the amount of income they can earn each year before their payment is affected. This initiative will deliver over $993 million in additional assistance over four years, bringing benefits worth up to $9.60 per week in increased part A payments to almost half a million families and increased
eligibility for health care cards for around 35,000 families.

Through this bill, more families will have the special payment known as the large family supplement included in their family tax benefit part A. This payment is currently valued at $248 annually and is available only to families with four or more children. Families with three children, who also have significant parenting expenses, will now be eligible for the supplement. Family tax benefit part A recipients will also benefit from the new maintenance income credit provided by this bill. This measure addresses the fact that child support payees receiving family tax benefit part A cannot control when they receive their child support payments, which may disadvantage them if they received lump sum child support arrears in a year later than when they were due. This disadvantage arose because the benefits of the maintenance income free area for the year when the arrears were due were not available. Now, however, families will have access to their unused maintenance income free area from previous years to offset any late child support payments, leading to increased family tax benefits.

Recipients of a mature age widow or partner allowance are among the group of older Australians to receive a 2006 one-off payment equal to the annual rate of utilities allowance, currently $102.80, under the government’s budget announcement this year. To build on this one-off bonus, an ongoing entitlement to utilities allowance is established for the first time for recipients of those three allowances. This will widen the support given by the government to older Australians in meeting their everyday household expenses, such as gas and electricity.

A new streamlined, flexible and coordinated payment for Australians affected by onshore and offshore disasters known as the Australian government disaster recovery payment is being introduced by this bill. The new payment will enable the government to provide emergency assistance for offshore disasters similar to the 2002 and 2005 Bali bombings, the 2004 Asian tsunami, the 2005 London bombings, the 2005 Eyre Peninsula bushfires or tropical Cyclone Larry in 2006. The new payment builds on existing arrangements and standardises the type of ex gratia government assistance that was provided in response to those previous events while allowing maximum responsiveness to support the Australian community at such times of crisis. Any adult Australian resident affected by an eligible natural or non-natural disaster, whether within Australia or offshore, may claim the payment. Initially, a person adversely affected by a major disaster will be able to claim up to $1,000 for himself or herself and $400 for each child in his or her care.

Under this bill, parents of children with severe intellectual, psychiatric or behavioural disabilities may qualify for the carer payment. These children often present significant caring demands, especially if they cannot attend school or if their behaviour is a risk to the safety of themselves or others, effectively preventing their parents from supporting themselves through workforce participation. In recognition of this, some parents may now qualify for the carer payment under the extended eligibility criteria.

Families concerned about the future care and accommodation needs of their sons and daughters with severe disabilities will be supported in attempting to provide financial security for the time when the families may no longer be able to provide care. If these families are able to make private financial provision through a special disability trust for the future of their family members with severe disabilities, special new means test concessions will apply. The new provisions
will recognise a special disability trust established by immediate family members for the current and future care of the severely disabled person. As a consequence, the severely disabled person’s social security payment, such as the disability support pension, will now not be affected by any trust income or trust asset, up to the value of $500,000. Furthermore, gifts to the trust to a total of $500,000 from immediate family members of age pension age will not affect the donor’s social security payment. This means that the usual Social Security Act and Veterans’ Entitlements Act provisions that limit the assets a person can hold or give away without those assets affecting their entitlements to payments will be relaxed.

The bill also amends the Family Law Act to implement changes to the governance arrangements of the Australian Institute of Family Studies as part of the government’s response to the recommendations of the review of the corporate governance of statutory authorities and office holders, conducted by Mr John Uhrig. The executive management governance arrangements recommended by the Uhrig review have been assessed as being the most appropriate arrangements for the institute. Therefore, the bill will enhance the institute’s governance arrangements to make them fully consistent with executive management governance arrangements. The enhancements will include, for example, making the institute a prescribed agency under the Financial Management and Accountability Act. In keeping with the government’s knowledge and innovation policy announcement of 2001, the institute will remain a statutory agency separate from the Department of Families, Community Services and Indigenous Affairs. Finally, the bill makes a small number of minor family assistance and social security refinements in line with current policy. I thank all senators for their support of this bill, which I commend to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (1.02 pm)—by leave—On behalf of my colleague Senator Bartlett, I move Democrat amendments (1) and (2) on sheet 4957, circulated in his name:

(1) Schedule 8, item 9, page 62 (after line 19), at the end of section 114D, add:

(3) In making an appointment in accordance with subsection (1), the Minister is to have regard to the merit selection processes described in section 114DA.

(2) Schedule 8, item 9, page 62 (after line 19) after section 114D, insert:

114DA Procedures for merit selection of Director

(1) The Minister must, within 9 months of the commencement of this section, determine a code of practice for selecting and appointing the Director that must include the following general principles:

(a) merit, including but not limited to appropriate subject, research and management experience; and

(b) appointment on the recommendation of an independent selection panel established by the Minister; and

(c) probity; and

(d) openness and transparency, including where the Minister appoints a person not nominated by the selection panel, the requirement for a statement to be tabled in both Houses of Parliament setting out:

(i) the reason for not accepting the recommendations made in accordance with paragraph (b); and
(ii) the reasons for the Ministers decision.

(2) The Minister must cause to be tabled in both Houses of the Parliament a copy of the code of practice within 15 sitting days after determining the code in accordance with subsection (1).

(3) The Minister must cause to be tabled in both Houses of the Parliament an amendment to the code of practice within 15 sitting days after the amendment is made.

114DB Audit of Procedures

(1) The operation of section 114DA must be audited by the Public Service Commissioner each financial year.

(2) The result of an audit conducted in accordance with this section is to be included in the annual report of the Public Service Commissioner.

(3) An audit conducted pursuant to subsection (1) must examine the code of practice as determined and any appointments made in accordance with the code of practice.

These are standard Democrats amendments to legislation, requiring that appointments to, in this case, the Institute of Family Studies be made on the basis of merit.

Senator STEPHENS (New South Wales) (1.03 pm)—I indicate that Labor is supporting the amendments.

Senator SANTORO (Queensland—Minister for Ageing) (1.03 pm)—The government has given careful consideration to these amendments, as it always does to amendments that are put before the Senate. With respect to the proposers and the contents of the amendments, the government regards the changes as cumbersome and unnecessary. The legislation clarifies accountability between the Australian Institute of Family Studies and the minister. The changes to the AIFS legislation are part of the whole-of-government reform process concerning the governance of statutory authorities and the review of the corporate governance of statutory authorities and office holders—the 2003 Uhrig review. Under the Uhrig review, all statutory authorities are being assessed and their governance arrangements reviewed and standarised as appropriate. This legislation updates and refines existing governance arrangements in the AIFS. It bring the AIFS into line with other statutory authorities that have been assessed under the Uhrig review, including Austrade and the Future Fund, and with newly established agencies, such as Cancer Australia.

The changes to the AIFS legislation will provide increased efficiency in the operations and activities of the AIFS and clarify roles and responsibilities. The intention of the legislation is to streamline arrangements and avoid unnecessary regulation. These amendments will not assist in achieving these objectives as they build an enormous amount of bureaucracy into the process. The intention is for the AIFS and its director to be accountable to the minister. The minister, with cabinet agreement, will be responsible for making the appointment and for the overall performance of the AIFS. It is not appropriate to diffuse responsibility for the appointment, as this proposal does. The AIFS is a statutory agency and the director is a statutory office holder. As such, the director is not an employee for the purposes of the Public Service Act. Senator Bartlett’s suggestions that have been moved by Senator Allison suggest that the ministers table a statement setting out details of rejected candidates. That is entirely inappropriate, as it would be unfair to those candidates not selected for their names to be discussed in parliament. The Public Service Commissioner generally does not play a role in or assist ministers with such statutory appointments.

The requirement for the Public Service Commissioner to do an annual audit and re-
port in the commission’s annual report would be a very unusual and narrow function to add to the commissioner’s responsibility and probably, in any event, one which would be able to be exercised no more frequently than one year in five. The commissioner’s functions are set out in the Public Service Act, and this proposal for the AIFS director is not generally consistent with those functions, which generally deal with systemic issues affecting the Australian Public Service and its employees. For the abovementioned reasons, the government will not be accepting or supporting the amendments.

Question negatived.

Senator PATTERSON (Victoria) (1.07 pm)—I have a number of questions for the minister. The first one is to do with the special disability trusts applied to people on disability support pension. Those people will age and move to the age pension. I would like the minister to give me an assurance and also to indicate where in the legislation it says that people will be able to take their trust from disability pension to age pension and they will not be disadvantaged when they move from one to the other.

Senator SANTORO (Queensland—Minister for Ageing) (1.07 pm)—I have been specifically advised that it is not mentioned in the legislation because age is not a factor to be included. The means test concessions are dependent on the beneficiary trust and reporting requirements and not on age.

Senator PATTERSON (Victoria) (1.08 pm)—If I have a person who is 60 with parents who have provided for them and they move to the age pension, where in the legislation am I guaranteed that I can actually maintain the trust and go to the age pension? If I go to age pension I am going to get the utilities allowance. If the person moves to the age pension, how am I and their parents going to be assured that they will actually be able to keep these trusts when they are of age pension age? The answer you have given me does not give me that sort of surety. If it is not there I am happy that we come back and look at it in August. I know we have to get this ready for people to start in September, but I did actually tell the minister that I was going to ask this question because I still was not sure where it was in the legislation that there was a guarantee that, when I move to age pension, I will be able to take the trust with me and not have my income affected.

Senator SANTORO (Queensland—Minister for Ageing) (1.09 pm)—I have just been advised that once the trust is established its administration and function does not cease until the beneficiary dies. The advice that I have is that that should satisfy the concerns of Senator Patterson.

Senator PATTERSON (Victoria) (1.09 pm)—I am sorry, Minister, it does not satisfy me. I want to know where in the legislation it deals with the trust that is set up. If I move to the age pension, there is no legislation that says that I can have this trust without it affecting my income and assets test arrangements. If the minister has legal advice and wants to table it, that is fine. But it is a thing that concerns me. I do not want to have us being told, ‘We didn’t really understand this and we didn’t anticipate this.’ Those people will get to be over 65 and they will go onto the age pension. If a financial adviser were to be advising them, they would want to know where to go to in the law where it says that the trust can still be held when they are on the age pension.

Senator SANTORO (Queensland—Minister for Ageing) (1.11 pm)—Obviously, this is an area of legislation that I am not intimately familiar with. I am acting for another acting minister. Senator Patterson may have other questions that perhaps I might be able to more immediately assist with. The
officers, Senator Patterson, will delve deeper into your question with the hope that we might be able to provide you with an answer before the end of this committee stage debate.

Senator PATTERSON (Victoria) (1.12 pm)—Thank you, Minister. I did not want to embarrass you in any way, but I did actually indicate some time ago that I was going to ask these questions. I am not satisfied, and it is the sort of thing that we would have in the committee stage for a bill which did not go to a committee. This is how we used to do it before 1988. We did not have committees on legislation. We would take maybe sometimes four days to do a family law bill. I am not being difficult; I am just wanting to make sure. All I want is to be assured that I can tell somebody who asks me this question that they are not going to suddenly find that, when the person goes onto the age pension, the trust set up as it is becomes an asset. I had not been assured of that.

My other question concerns the criteria for being eligible to have one of these trusts. I do not know which page it is, but it is clause 1209M, ‘Beneficiary requirements’, subclause (2). It says:

(2) If the principal beneficiary has reached 16 years of age—
and it goes through a number of things; the first one is that you have to be eligible for a disability pension—
(ii) be receiving invalidity service pension under Part III of the Veterans’ Entitlements Act; or
(iii) be receiving income support supplement granted on the ground set out in subparagraph 45A(1)(b)(iii) of the Veterans’ Entitlements Act...

That is fine. It then says:
(c) the beneficiary must have a disability as a result of which he or she is not working, and has no likelihood of working, for a wage that is at or above the relevant minimum wage.

I think that is fine. A parent of a disabled son said to me that he has a friend with a disabled son who is working in a business where they have taken on the role of making sure that that person is being looked after. They are paying him a minimum wage but with supervision from some of his coworkers as a community business partnership. I just want to make sure that, if that is happening and the person is genuinely not able to manage their own affairs yet able to do a menial task to attract a minimum wage, they are not excluded.

I think the important thing with these is that we do not want people to be able to drive a truck through them. We also do not want people to have to go through extensive assessment to get in. That has been the challenge that the advisory committee had. I think we need to look at clause 1209M(2)(c) because, if there are people working in firms where their coworkers are assisting them to actually get up to a minimum wage and they would not be able to get that anywhere else, we do not want to see them cut off. If they have been in a special school and have gone into open employment, they would miss out. The minister has indicated that he will look at this very carefully and this is not the end of the story. I do not think it should be the end of the story. But I do not think we should have it so broad that we have people getting in and being able to have this trust when they really are not the sorts of people for whom this is designed. This is designed for people who have limited testamentary capacity or no testamentary capacity at all. I have some concerns about (b), which states:

(b) the beneficiary must:
(i) have a disability that would, if the person had a sole carer, qualify the carer for carer payment or carer allowance; or
(ii) be living in an institution ... or group home in which care is provided for
people with disabilities, and for which funding is provided (wholly or partly) under an agreement, between the Commonwealth, the States and the Territories, nominated by the Secretary under subsection (3) ...

Some of the parents want to provide privately. So their children may be in a group home for which they have contributed money out of their son or daughter’s trust. The children may be in an institution or a group home not funded by CSTDA. We might be able to get around this by giving them a couple of dollars funding and make it fit the bill. That is not the way I would like to see it happen, but that might be a way of doing it. There is always another way to skin a cat.

Qualifying for carer payment or carer allowance is an issue for the following reason. You may have a moderate disability—you may have Down syndrome, for example—and you can undertake activities of daily living, such as getting up, having a shower, feeding yourself, getting yourself to the business service and maybe even getting to the footy with your mates, but you cannot manage more than $10 and your parents may get the ticket so you can go. The carer allowance assessment indicates that you have to have one-on-one care for 20 hours a week. Those carers do not give one-on-one care for 20 hours a week. They cook dinner and the young person eats it, but that is not counted as caring for the person in that sense. They are part of the family; they have done it for 20 or 30 years.

I had one case just recently where somebody knew this was coming up, saw the legislation and tried three times to get the carer allowance. Their son was in a special school and is now working in a business service, but they did not qualify for carers allowance, with all the help from Centrelink. On the third occasion—after three visits to the doctor and three visits to Centrelink—they qualified for the carer allowance. This parent is relatively young—in his 50s or 60s—and he said: ‘What happens when I’m 83? I can’t go to the doctor three times and I can’t get down to Centrelink three times.’ I pointed this out to the minister when I saw the legislation and we looked at how we could amend this. We all know it is not easy because, with anything you do, people will try to drive a truck through it. I have said that we need to look at a cluster of other things that you have to do that would qualify you. If you have been in a special school and you are in a business service, you are not high functioning and you would qualify for this with the intent that the cabinet had and with the intent in the legislation.

So rather than trying to draft an amendment that may mean that people could drive a truck through it, I raised with the Minister for Families, Community Services and Indigenous Affairs that it may not allow some disabled people, for whom we have really aimed this, to benefit from the trust proposal. As a result, the minister has given me an undertaking to review these particular provisions and, if necessary, to introduce an amendment when the parliament resumes in August. I am conscious of the need for families to start preparing. They are very keen about this and they want the bill to be in by 1 September. I do not want them to think that this is the end.

All of us in this chamber could say: ‘Yes, you’re in. You’re in. You’re in. You’re out. You’re in,’ and we would be 99 per cent right, but to try and work out how you do that in a way that is not complicated, that is fair and that does not put onerous burdens on people to get into the system is quite challenging. I know that the advisory committee thought about it long and hard. I would ask that senators listen and talk to families who are planning to use this to see if they have
any hurdles that are too high for them to jump. It behoves us to make sure that the hurdles are not so high that they get eliminated.

I know that a lot of parents whose sons and daughters are in business services or are being supported through an open employment program will read this Hansard, because it will be circulated. I want to tell them that my office will be available if they want to raise any concerns that they have and I will bring them to the minister’s attention.

We need to see this as a work in progress. It is very new, but it is better to go slowly than to have people misuse it. That is the aim of it: to make it relatively easy for those who should get it but not easy for people who should not get it. I want to note on the public record that the minister has made that commitment.

Senator SANTORO (Queensland—Minister for Ageing) (1.20 pm)—Obviously Senator Patterson, with her very detailed knowledge of specific applications of the legislation, is asking some very detailed and pertinent questions. On her most recent contribution, I have been advised that the minister has spoken with Senator Patterson and provided some assurances prior to the commencement of this debate. For the purposes of Senator Patterson going on the record with her concerns, if she indicates to me that she is satisfied with the assurances of the minister, I think that that is probably—

Senator Patterson—I’ll be watching closely.

Senator SANTORO—I will take the interjection from Senator Patterson so that it can go on the record: she will be watching closely. I am sure that she will be true to her commitment.

On her first question, I have received some further advice which will hopefully clarify the senator’s concern. I have been advised that we are talking about section 1209Y, which is about the attribution of assets. The relevant clause is 1209Y(1), which states:

For the purposes of this Act, the assets of a special disability trust are not to be included in the assets of the principal beneficiary of the trust.

I have been advised that the particular clause applies regardless of the kind of payment being considered—in fact, regardless of the kind of payment in place—that the particular subsection is not linked to any form of payment and that it therefore applies irrespective. That is the advice that I have just been provided with. I wonder whether that, in fact, satisfies Senator Patterson’s query.

Senator PATTERSON (Victoria) (1.22 pm)—Only just. I would like the minister to give an undertaking that we will go back and have a look at this to see if we need to spell it out in more detail. I am not convinced. I will not try and do an amendment on the run, but I do not know how binding the minister’s undertaking is if I move from a disability pension to an age pension. If we are amending the bill further, maybe the next explanatory memorandum could outline that—there should be somewhere where it clearly states that. One of the problems is that, if it is not clear to the people at Centrelink, customers will go to a Centrelink office and get half-baked advice. We have to make it very clear, and I do not have a lot of comfort that it is very clearly spelt out. If I could see legal advice to that effect, I would be happier. I will not pursue it at the moment because it is not going to affect many people as I do not think there would be many who are on the cusp of moving from disability pension to age pension—but there may be. I would not like to see this tested. If I could have written legal advice, that would most probably satisfy me, so I will be seeking that.
Senator SANTORO (Queensland—Minister for Ageing) (1.23 pm)—I think I understand Senator Patterson’s contribution correctly. I will personally brief Minister Brough in relation to the concerns and the issues that you have raised. I will ask him to consult with you further with a view to providing you with the assurances that you have sought. I assure Senator Patterson that, if there are unintended consequences from this amending bill as a result of the lack of clarity that she has brought to the attention of the Senate, I am of the view that Minister Brough, the relevant minister, would be more than happy to discuss the matter further with her with a view to clarifying it, either through the provision of what legal advice he may have available to him now or through some other consequential and minor amendment—if that is required. I hope that assists you and assures you somewhat, Senator Patterson. It certainly would be of assistance to us here in terms of considering and progressing this legislation.

Senator PATTERSON (Victoria) (1.24 pm)—I have one other thing, and I will put a question at the end to legitimise it. One of the other measures in this bill is about family tax benefit overpayments and looks at the situation in which a person, when they received lump sums of child support in arrears, was penalised because they lost the income free benefit level—they only got it for one year instead of three years because the person paid the lump sum three years in arrears. I want to say that we as members of parliament need to always have our ears open to suggestions. The suggestion for this change came from a journalist who had a friend that this happened to. Suddenly, she received an overpayment. The journalist was Alex Kirk. I told her that this was the Kirk amendment. She said to me that this did not seem fair, and I did not think it seemed fair, either, and so it is here in legislation. Somebody listened to what somebody else said and told me, and we were able to change it.

One of the things we have done is bring in a whole suite of measures to reduce overpayments. This is part of those measures. There are two more to come in on 1 July which will further reduce the chance of people receiving overpayments. I do not think the minister needs to reply; I can give him the answer. This is a measure that will reduce overpayments and prevent people from having an overpayment when they have no control over someone paying them their child support in arrears.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading
Senator SANTORO (Queensland—Minister for Ageing) (1.27 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

FUEL TAX BILL 2006
FUEL TAX (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2006
Second Reading
Debate resumed from 14 June, on motion by Senator Abetz:

That these bills be now read a second time.

Senator STEPHENS (New South Wales) (1.27 pm)—The Fuel Tax Bill 2006 and its cognate bill are very important bills. The Fuel Tax Bill 2006 is complex, but it is broadly about three things: moving business from the Energy Grants (Credits) Scheme onto the new Fuel Tax Credits Scheme, promoting changes to the way businesses that are exempt from excise claim back the tax paid on fuel and putting in place the legislative structures required to give effect to the
phasing in of tax or excise on LPG, CNG—that is, compressed natural gas—and biofuels, including ethanol.

The opposition has expressed support for the broad structure of the new fuel tax regime, which provides for a single system of fuel tax and associated credits; a reduction in the incidence of fuel tax levied on taxable fuels; a staged introduction of a framework for the taxation of liquefied petroleum gas, liquefied natural gas and compressed natural gas from 1 July 2011; a staged introduction of excise on and a phasing out of domestic assistance for biodiesel and domestic ethanol; and the linking of fuel credits to environmental standards.

Under the fuel tax credit system, all taxable fuel acquired, manufactured or imported into Australia for use in off-road applications for business purposes will become tax free over time. There will be an effective tax-free status for fuel introduced over time for business off-road use. Petrol for off-road business use will also be eligible for a fuel tax credit from 1 July 2008. This is a major tax benefit to business fuel users in regional Australia.

For off-road usage the current Energy Grants (Credits) Scheme will be phased out from 1 July 2008 when a 50 per cent fuel tax credit will apply and 100 per cent for petrol for uses that the current grants scheme recognises. However, the new tax regime will gradually impose fuel tax for biodiesel, domestically produced ethanol, liquefied petroleum gas, compressed natural gas and liquefied natural gas. This will be phased in from 1 July 2011 to 1 July 2015, and this delay is essential for development of these sectors. Labor claims credit for advocating this staged introduction.

For on-road users, the current 20-tonne threshold is removed and vehicles over 4.5 tonnes will now only pay fuel tax at the level of a road-user charge and receive a fuel tax credit for other tax. The Energy Grants (Credits) Scheme will continue to provide grants for alternative fuels from 1 July 2006 until 30 June 2010 for vehicles over 4.5 tonnes. This is then phased out in five equal steps. Concessions, refunds and remissions currently delivered through the excise and customs system for the use of fuel other than fuel in an internal combustion engine will be replaced by fuel tax credits. Claiming of fuel tax credits for large claimants—over $3 million—and operators of on-road diesel vehicles will be conditional upon businesses meeting certain environmental criteria.

As the new fuel tax model was being developed, Labor called for a delay in the period before the excise would apply to gaseous fuels and ethanol and bodies. The government accepted this proposal by Labor, with an extension of the introduction of the excise from 2008 to 2011, and this was significant in Labor’s decision to support the broad framework. The question before the chamber today is not whether the broad fuel tax model is acceptable—this is a debate that has already occurred. The question is really whether the bill adequately gives effect to the intention behind this model, and I have to say that it manifestly does not in its current form.

As a member of the Senate Economics Legislation Committee that considered the bills I must say that the committee heard many concerns in its inquiry that many businesses will be introduced to paying fuel tax for the first time. The excise or customs duty is to be paid up front, and the associated credit is to be claimed by businesses via the business activity statement, BAS, in the same way as input tax credits are claimed for the GST. Labor has received strong representations from manufacturers in the areas of chemicals, plastics and paints, sponsored by ACCI. In addition, farmers would be ad-
versely affected. Again, we heard evidence about this in the committee inquiry into the bills. In fact, on the public record Senator Fiona Nash has said:

The changes, if successful, would have severely impacted on the cash flow of broad-acre farmers who make up roughly 70 per cent of Australia’s 130,000 farming businesses, at a time when they could least afford it.

During the inquiry the manufacturers claimed that the new arrangements will potentially cause major cash flow problems for medium-sized producers. Currently these producers are effectively fuel tax free due to the remission certificates from excise and customs on fuel inputs. Now they must pay the fuel tax and get the credit when they lodge their BAS. Producers with turnover of $20 million must report monthly for GST purposes. Providing that the GST refunds are made quickly these producers will not face major delays. However, businesses with turnover from $2 million to $20 million report quarterly and thus face major delays between payment of the tax and the associated credit. Clearly, this measure would cause cash flow problems. In addition, the ATO has been slow in processing refunds when there has been an audit or review of the BAS, as identified by the ANAO.

So strong were the arguments against the model of receiving the fuel tax credit when BAS was lodged that Minister Dutton has had to announce the introduction of the two-year transitional arrangement which would permit the commercial users of the fuel to apply to the commissioner to have an early payment. It is not clear exactly when the commissioner needs to make the early payment. It would be helpful for the minister to clarify this. I presume that this means that the fuel tax credit will be paid as soon as an application is received for payment and the excise or customs duty has been paid. The proposed changes do appear to provide a measure of relief to those adversely affected by the new arrangements. However, the question can still be asked: if the government sees fit to provide for fuel tax credit to be brought forward now, why shouldn’t this be a permanent feature of the new regime? In two years time the same cash flow problems could persist. In fact, it was the recommendation of Labor senators who are members of the Economics Legislation Committee that it should occur and should remain a permanent arrangement. Labor is certainly predisposed to review the operation of this transitional model to determine whether or not the proposed transitional model should expire at all or become a permanent element of the fuel tax system.

The Fuel Sales Grants Scheme is being abolished in this bill. The scheme provides a grant for sales of gasoline or diesel up to three per cent per litre in non-metropolitan areas, including my own electorate of Hume and across regional New South Wales where I do most of my travelling. Higher petrol prices in regional and rural Australia will be the result if the Howard government goes ahead with its plan to abolish the Fuel Sales Grants Scheme—and, as I reported to the chamber, over the long weekend some places in New South Wales had petrol prices over $1.50 a litre. Led by the National Party, the abolition of the scheme from 1 July 2006 will increase the tax burden on petrol in rural and regional Australia. At this time of record fuel prices the government is withdrawing a scheme worth $257 million a year that was central to ensuring that, after the GST, prices of petrol in non-metropolitan areas would not rise more than in metropolitan areas. It may be the case that this scheme has not operated properly, but more evidence needs to be presented on this point and direct options for reform considered.

The government has said that the funding will be put into AusLink. Although it is true
that the majority of AusLink funding goes to non-metropolitan areas, a large slice of it is also spent on major roads like the Pacific Highway. So a significant element of the funding has been removed from rural, regional and remote communities. This in itself is a concern, but what is worse is that the government is doing this by stealth, hoping that regional Australia will not notice. Certainly the Australian Labor Party has noticed.

On behalf of Labor, I move the second reading amendment standing in my name:

At the end of the motion add “and the Senate
 calls on the government to review in 2009
 the proposal to introduce excise on biofuels
 in 2011, and consider whether or not there is
 a case for delaying the introduction of ex-
 cise, depending on the progress made:
 (a) by the industry in securing new in-
 vestment in biofuel production in
 Australia;
 (b) by the biofuels industry and the
 petrol retail industry in increasing
 market penetration of biofuels; and
 (c) towards achieving the 350 million
 litre target in 2010”.

Labor is very concerned that government delays in legislating the regime may have adversely affected the industry’s ability to move forward more quickly with new investments, and that means a slower market penetration for E10 fuels. Industry says it needs a full five years to mature, and Labor suggests that a review of the proposed tax regime should be undertaken in 2009 to determine whether the industry needs more time. It should take into account the three points that are contained in the amendment.

We believe that ethanol is good for regional jobs and the environment and it can certainly help Australia become less reliant on imported fuels. Our increasing dependence on imported fuel and refined petrol is an issue that must be addressed in the future. With Labor’s plan to encourage the establishment of a gas to liquids industry, the promotion of ethanol will make Australia less vulnerable to the vagaries of the international market.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (1.39 pm)—The Fuel Tax Bill 2006 and the Fuel Tax (Conse-
 quential and Transitional Provisions) Bill 2006 are the clearest example yet of policy in a vacuum, with very little regard for the consequences on business, the environment, rural economies or jobs. The government has effectively cherry-picked from the recommendations of task forces, studies and inquir-
 ies and it has neither consulted with those most affected nor taken notice of their entreaties. The Democrats were pleased that the Chair of the Senate Economics Legislation Committee, your good self, Mr Acting Deputy President Brandis, reported on the problems associated with this bill and the need for resolution of those problems before it proceeded. Unless something has happened in the last few minutes, the government has not done that, and the bill may join the many to be pushed through regardless of the outcome. I hope this is not the case but it is looking likely.

The most significant of those problems was the fact that, in simple terms, the government is imposing a tax burden on bio-
diesel that would make it more expensive than diesel. This is a backflip of the highest order, reversing the agreements made with the Democrats in 1998 when massively cut-
ing diesel excise threatened to wipe out the alternative fuels and oil-recycling industries and when mechanisms, some of them complex indeed, were put in place to stop that happening. It reverses decisions made even as recently as two years ago. Some time be-
fore that, the government announced that the same excise as is imposed on petrofuels would be applied to alternative fuels. Know-
     ing that this, too, would spell the end of the
fledgling alternative fuels industry, it had to again back down and agree to delay the introduction of the phase-in by three years until 2011 going through to 2015 and to halve the rate to avoid this disaster. I am pleased to say that we have for the third time done what Democrats do so well in this place, and that is to peel back the layers of complexity and find a fair solution. I will be moving amendments along those lines.

The government says this bill simplifies the fuel tax system, but what has become clear is that not even the government—the ministry and Treasury officials—fully understood the implications of the bill. I do not know if they do now, but certainly at the time we conducted this inquiry, Mr Acting Deputy President, it is fair to say that you and others on the committee made that conclusion. It is very complex because of the complexity of the current system and, as is usually the case, the policy outcomes dictate to some extent that complexity. I will recall them: grants, rebates, excise differentials and boundaries, all of which add to that complexity.

The new bill has its own complexities and variabilities. We had advice, for instance, from Biodiesel Australia, who listed some of the variations in assumptions and inputs into this whole question. There is the price consumers can buy diesel for, and that currently varies from $1.33 for very large trucking companies to $1.50 for small users in remote areas. There is the price biodiesel can be sold for, and that depends on a range of things—operating costs, feedstock costs and blending and transport costs—and at present bulk sales are occurring at as low as $1.05 ranging up to $1.20 in more remote areas. There is the year being considered, and this affects the comparison between fuels, as taxes and grants vary each year between 2006 and 2015. Without exception, the position gets worse for biodiesel each year, because grants are phased out and taxes are phased in. There are questions about whether the fuel is being used on or off road—different rebates apply, and the road user charge only applies of course to on-road use—and whether the blend meets diesel standards, which I will say more about in a moment.

The bill is either a result of carelessness by the government or, as is more likely, a sop to the very influential petroleum industry. Whatever way you look at it, it is a giant backflip on the part of the government and the Prime Minister, who have purported in the past to support biofuels—that is, the biodiesel and ethanol industry.

The officers from Treasury, facing the critics of this bill—and there were many—were able to provide no rationale for the changes, offering only that they are ‘policy decisions of government’. No modelling was done, no advice was sought from other departments and there was no explanation as to why this was necessary. No impact statement was done on the industry most affected. I do not know what goes on in coalition party room briefings on legislation, but this one slipped through, obviously, without questions being asked about the impact on the renewable fuel industry, on farmers or on rural communities.

Senator Boswell interjecting—

Senator ALLISON—Senator Boswell joins the debate now. I would have expected the National Party to have asked these questions, to represent the users amongst their own constituents, but apparently not. The Biodiesel Association of Australia questioned Treasury about the impact. They said: The exact words that came from one of the parties I spoke to in Treasury were: ‘Our concerns are not the externalities of the fuels, only the simple costs of what comes in and out, and it is your responsibility—

referring to the Biodiesel Association of Australia—
to make sure that the politicians tell us to change it.’ It was that blunt.

I wonder whether that was what the cabinet and the party room were told, too, about this bill.

When the committee asked about the level of awareness and understanding in the industry about the impact of these changes, it was told that it was only a week ago that the complex system of grants and credit schemes was able to be explained to producers and other industry people, in part because the tax office had only just corrected the script on their telephone line that had been giving people the wrong information. The Biodiesel Association of Australia said:

Even the tax office has had trouble trying to understand this, and that meant that, when the bill was put forward a considerable time ago, people could not understand the calculation of what grant went where or how it was all applied. They are still trying to work it out themselves.

I will go through the main features of this bill in a moment, but it is worth pointing out, first of all, that Australia’s fuel taxes are amongst the lowest in the world. That is without this further cut to diesel excise. Australia is one of the few countries to have reduced excise on fossil transport fuels. As part of the A New Tax System proposed in 1998, the government wanted to reduced excise by $2 billion a year—a cut that was more than halved through negotiations with the Democrats. In March 2001 biannual indexation of excise on transport fuels was frozen at around 38c per litre. Access Economics estimated that revenue forgone from this freeze will be $1.85 billion in 2005-06.

The fuel taxation inquiry recommended that we reintroduce indexation, but that was rejected by this government. This fuel tax bill proposes reducing fuel taxes on diesel by a further $1.5 billion. On 1 July, all existing rebates and subsidies are to be replaced with a single system of fuel tax credits and reduced excise on diesel. Products such as solvents will for the first time be required to pay excise. Offset credit is claimable via the business activity statement. Excise foreshadowed in the 2003 budget will be imposed on alternative fuels from 1 July 2011 at a rate that is approximately half the equivalent rate of excise on petrofuels but is offset by tax credits that will be progressively phased out by 1 July 2015.

Commercial vehicles over 4.5 tonnes in metro areas will be entitled to credits for diesel, and around 20c of the 38.143c a litre in diesel excise will be declared a road user charge. Businesses claiming more than $3 million a year in fuel tax credits will be required to be members of the Greenhouse Challenge Plus program. This obliges them to measure their greenhouse gas emissions but not to act on those measurements. There is no actual abatement being mandated. Credits for vehicles of more than 4.5 tonnes will also depend on vehicles being no more than 10 years old. The Fuel Sales Grants Scheme, a 1c per litre grant provided to fuel retailers in non-metro areas and worth about $200 million a year, is to be phased out. From 1 July 2012, all off-road business users of certain fuels will be effectively excise free; likewise, all diesel used in electricity generation and burner fuels.

The Democrats strongly oppose this legislation because it is a clear backflip on the negotiated agreement under the ANTS package in 1999 and it reintroduces many of the problems that were overcome by that agreement. We negotiated major changes to that package—informing by an extensive inquiry by a references committee, I might point out. That inquiry was told that the $2 billion in cuts in petrodiesel would wipe out cleaner but still fledgling alternative and renewable fuel industries, compressed natural gas, liquefied natural gas, LPG and biofuels.
We supported the government’s objective of reducing transport costs in rural areas and for agriculture at a time when there was a serious decline in rural economies, but we negotiated to put in place a suite of measures to more than halve those cuts and to address the very significant problems drawn to our attention during that inquiry. The inquiry was also informed that the industry collected many millions of litres of used oil from mining companies, service stations and industry right around the country, including farmers—oil that would otherwise be dumped in landfill or worse—and that the industry removes contaminants for reuse or, better still, re-refines it to produce pure lubricating oil product, but that all of that would cease to be viable.

The Democrats put in place the Product Stewardship (Oil) Program, negotiated for recycling waste lubricating oils. That has been an enormously successful program that now collects 200 million litres of used waste oil a year. We negotiated to remove altogether the excise from rail, in recognition of the competitive advantage given to long-haul road transport in the diesel excise cuts and the fact that rail use charges were significantly higher than road use charges. We negotiated national standards for fuels that, for instance, progressively and massively reduced the sulfur content of diesel from around 1,500 parts per million to less than 50. We negotiated standards for vehicles emissions, bringing Australia into line with European standards over time and massively improving air quality.

The excise removal on diesel for remote power generation was reversed, and excise that was previously refunded to state governments was redirected to the very successful program to bring renewable energy to remote communities, including many Indigenous communities, often in combination with diesel. It appears that in this bill, although this did not receive much attention, that incentive will be removed as well. Through the Diesel Fuel Rebate Scheme off-road and the Diesel and Alternative Fuels Grants Scheme on-road, the Democrats negotiated limits on the diesel excise cuts to heavy interstate freight transport. In all of this the price relativity of alternative fuels was secured and grants were made for vehicle conversions.

The Treasurer apparently is not concerned about externalities, including jobs in regional areas and the economy of our country. He wants what he calls ‘a level playing field’. Well, you cannot have a level playing field when the petro industry has had over 100 years to establish its infrastructure: refining, storage, transport and retail distribution. He continues to resist the adoption of alternative fuels, except perhaps in Queensland, as if there were an endless supply of oil. And this government has let those oil companies get away with it.

In countries like Germany where biofuels have gained significant shares of the fuels market, biofuels have been allowed to develop in an excise-free environment for more than 20 years. Germany’s approach led to small, community based production happily coexisting with the larger producers, with an output now in excess of two billion litres per annum. This makes the Prime Minister’s target of 350 megalitres for biofuels look very paltry indeed. Sweden imposed excise on biodiesel in 1997 which halted development of the industry. Only recently, Sweden’s policy was reversed as part of a policy target of being completely fossil-fuel free by 2015.

The bill was most severely criticised for the effect it would have on biofuels. Producers argued that this bill represents the removal of government support for biofuels and the demise of the sector. While it is difficult to precisely calculate the impact, submit-
ters said the following were some of the likely impacts. From 1 July, 100 per cent biodiesel and 49 per cent blends of biodiesel for both on and off road are likely to be more expensive than petrodiesel—13c a litre and 35c a litre respectively. By July 2010, for heavy on-road users that difference will be as high as 8c a litre. For off-road users—farmers, miners et cetera—100 per cent biodiesel will be 35c a litre more expensive than petrodiesel. Is this really the outcome that this government wants?

The bill effectively returns to the original intention of the government, using a complex interaction of road user charges, designation of five per cent biodiesel blends as the standard for highest credits and the treatment of the current Energy Grants Credits Scheme as an offset excise, and, in so doing, discriminates against rural off-road users of biodiesel in particular and against biofuel production in general.

Biodiesel and biodiesel blends are developing significant markets for their products that are now in jeopardy. Mr Mapstone of Gardner Smith said that the biodiesel industry had grown very quickly and could be producing over 800 million litres of biodiesel a year were it not for the changes proposed to start on 1 July. He said this growth had been possible because biodiesel has not had to rely on marketing the product through the four major oil companies, as is the case for ethanol, and was supported by the bans on blends of more than 10 per cent ethanol in petrol and the ongoing reluctance by government to mandate even that blend. This legislation, by designating five per cent biodiesel and 95 per cent diesel as the biodiesel standard, effectively extends to biodiesel the marketing barrier that existed for ethanol. Mr Mapstone explained:

With ethanol, you must align yourself with a large retail network. With biodiesel, we can make a product that is fit for purpose on spec and we can go direct to end users, whether they be road transport, off-road users, fishing fleets or the like. That is another reason why the industry is growing so quickly. It will stop very quickly as well, if it is not understood where this legislation will put us.

Biodiesel Australia concurred. They said:

The biodiesel industry in Australia has only just started. In the last 12 months, production has gone from virtually zero to 180,000 tonnes. I have a list of the projects which are currently planned. With the incentives offered by the government so far and the current tax position on excise, it will produce well over one billion litres of biodiesel per annum. Apart from the plants which are currently under construction, the proposed changes to the excise rulings and the way in which the rebate and producer grants are going to work will make 99 per cent of the biodiesel market unviable—

I repeat: 99 per cent of the biodiesel market will be unviable. They went on:

The way the biodiesel producer grant is applied will effectively offset the excise paid or payable, or liable, for the production of the fuel—that is how it is treated by the tax office.

... while biodiesel currently has a moderate advantage, as of next month biodiesel will suffer a price disadvantage. Definitely, in the case of on-road applications, there will be a price penalty of anywhere between 2c and 4c. In the case of off-road applications, that price penalty is around 38c, the full excise price.

Witness after witness brought this story forward: if this bill goes ahead, it is the end of the industry. The Democrats have been working very hard on this in the last few days, and I think we have come up with a solution to the problem. I will be putting amendments that will effectively establish that level playing field. The amendments will treat biodiesel in exactly the same way as diesel is being presented. They will maintain that very small price advantage that currently exists. The advantage is so small that it is
barely feasible in a lot of markets. However, as I indicated, there are ways in which biodiesel has been able to penetrate the market, and no doubt this is being seen as a threat to the oil industry.

There are a range of complexities in this package. Transfield Holdings described the impact on small users of biodiesel. They say: Small users typically obtain their fuel from service stations, which are mostly supplied by the major oil companies. They often have concerns about the quality of the fuel and are not normally as knowledgeable or equipped to trial fuels that might be considered ‘experimental’. Hence this group is most likely to be introduced to Biodiesel via a B5 blend—that is, the blend that benefits the petro companies significantly—which meets the ‘diesel standard’ and therefore raises no issues with vehicle warranties etc. The combination of the low blend ratio and the smallness of this market, means that the Australian Biodiesel industry will struggle to achieve critical mass.

That was confirmed by each of the other submitters to our inquiry. It is clear that, under the changes scheduled to take effect from 1 July, the benefit to on-road biodiesel users reduces from the current 7c a litre to a disadvantage of 20c a litre. In the case of off-road biodiesel, the position changes from a 3c advantage to a 38c disadvantage, as I have already indicated. (Time expired)

The PRESIDENT—In the half a minute before question time starts, I take the opportunity to remind senators that it has been brought to my attention more than once in the last couple of days that there has been a failure to observe standing order 185. One of the things that we do in this place is to acknowledge the chair when we enter and leave this chamber. We do not pass between the chair and a senator who is speaking, and a senator, on entering the chamber, shall take his place and not stand in the passages. I remind honourable senators of that.

QUESTIONS WITHOUT NOTICE

Migration

Senator CHRIS EVANS (2.00 pm)—My question is directed to Senator Vanstone in her capacity as Minister for Immigration and Multicultural Affairs. If the minister is still the minister responsible for immigration matters, can she explain to the Senate what the government’s immigration policy is today? Is it the policy announced by the Prime Minister on 17 June 2005, is it the policy announced by the minister on 11 May 2006 or is it the bill rejected by the party room last night? Is the minister confident that the Prime Minister will be able to explain to the Indonesian president the rationale for the government’s current position if their meeting goes ahead next week? Given that the changed announcement last night did not remove the retrospective elements of the bill, is the minister able to provide a definitive explanation of what rules would apply if a boatload of Papuan asylum seekers were to land on mainland Australia today?

Senator VANSTONE—The policy in this respect is perfectly clear. The bill was introduced some time ago into the House of Representatives. The Prime Minister and others made it clear that we would be discussing with our colleagues some concerns that some colleagues had, and that we would also look at what the Senate committee report says. Yesterday, the party room looked through a number of amendments that the government has indicated it is prepared to make to take account of both the Senate committee report and some views expressed by my colleagues. I understand those amendments are being distributed today so that everyone can look at them and digest them. Consistent with that which I indicated earlier in the week—that the government had no desire to push this
bill through quickly—we indicated that we would distribute the amendments today and the bill will be debated when we come back so that everyone will have plenty of time.

What the Prime Minister says to President Yudhoyono is a matter for the Prime Minister. I have no doubt that, being the longstanding good friends with Indonesia that we are, a range of matters will be discussed. I do not think that the opposition need have any concern in that context. If a boat comes in the meantime that lands on the mainland, depending on the time taken for processing, it might be covered by the existing law. But if the subsequent bill is passed then it would have retrospective action back until the date of the announcement.

Senator Chris Evans—Mr President, I ask a supplementary question. I am not sure what the minister meant at the end of her answer. She seemed to imply one option and then another option. It did not seem to be clear what she was actually saying. What policy would apply if a boat were to land on mainland Australia today? If she could be clear about that, I would appreciate it. Given that the amendments have been distributed today, do we take it to mean that those amendments proposed to the current act are today’s policy? Given the total disarray of the government on this issue, does the minister agree with the view of the member for Canning, Don Randall, that the immigration policy is subject to the control or veto by backbenchers whom he describes as ‘heretics and anarchists’?

Senator Vanstone—Senator, I think you will find if you look over the Hansard that what I said to you in response to the third part of your question was clear. I invite you to look further at that.

Senator Chris Evans—Well, which is it?

Senator Vanstone—If it was not clear to you, Senator, what I am indicating is that, if you look at the Hansard, you will find that clarity will dawn on you when you read it calmly.

Senator Chris Evans interjecting—

Senator Vanstone—You will find that. I feel sure, Senator, that, even to you, that will happen. As to the remarks by colleagues about other colleagues, it is a free country and various people express various views. My own view is that people are entitled to express their views. That includes people who have concerns about the bill. But, I might say, it also includes people who would prefer the bill as it stands now—that is, before the amendments are formally moved. There are people who have that view and who are very concerned that some people would seek to have a time limit. (Time expired)

Whaling

Senator Payne (2.05 pm)—My question is to the Minister for the Environment and Heritage, Senator Ian Campbell. Will the minister inform the Senate of his recent efforts to advance the protection of whales and other marine animals? Further, will the minister respond to other outcomes from the recent international meeting?

Senator Ian Campbell—Thank you to Senator Payne for a question which I know is of great interest to most Australians. The Australian delegation and, in fact, the coalition that we have helped to form with a number of other pro conservation nations, achieved some important outcomes at a conference that could well have gone the wrong way. The Japanese—and their pro-whaling friends in Norway, Iceland and some other places: 27 other countries including Nauru—have been, it is obvious, aggressively recruiting, really since the moratorium came into force 20 years ago, with a view to returning the world to the disastrous days prior to the moratorium, when commercial whaling saw...
the destruction of nearly the entire humpback whale population on the earth, the entire fin whale population on the earth, and the entire blue whale population on the earth, not to mention some other lesser known species. Blue whales have not recovered as a result of the moratorium. They are still at perilously low levels. Fin whales have only just started recovering, and are still listed as an endangered and vulnerable species. Humpbacks, even with 20 years of no hunting, are still listed as a species that is at risk.

The achievements were in fact to defeat the whalers on four crucial and substantial votes. Japan moved to ensure that all votes at the commission would be held in private, which would of course reduce accountability back to their nations of those who choose to vote in favour of whaling. They tried to get rid of the Southern Ocean sanctuary, a sanctuary that was put in place just at the end of the last century. They tried to introduce commercial whaling off the coast of Japan and failed to do that. They also tried to remove any items to do with small whales and small dolphins from the agenda of the commission.

All of those votes were won for a couple of reasons—firstly, because we have been able to create this global coalition of countries for conservation. That has taken a lot of very hard work by not only the Australian government and the Foreign Affairs officials from Australia but also core like-minded friends: the United States; Great Britain, headed up by their minister Ben Bradshaw; New Zealand and their minister Chris Carter; the Brazilians; and the South Africans—a group of countries working together. That group stayed stronger than ever before. We also got some key abstentions on some key motions from countries like Kiribati and the Solomons. We saw one country, Belize, switching sides. And of course we saw, for example, Israel, a new conservation nation, joining the commission. All of those factors brought it together. We did see Japan, in an act of desperation, move a pious motion, as we would call it here in the Senate—basically a motion that is nonbinding—on the last day, criticising the moratorium. That highlights the risks that are ahead of us.

The only disappointing note for the delegation over there, which included NGOs like Project Jonah and the Humane Society, was the incessant carping and whining from the Labor Party opposition spokesman and Senator Brown back here. It is sad when you have a bunch of Aussies on the other side of the world working hard with other countries to try to maintain the moratorium on whaling that you get this constant carping. I notice that Senator Brown in this place actually suggested that we use Japan’s tactics in relation to Nauru and other Pacific nations to win their vote. Australia will never link its aid to votes in these sorts of bodies, and Senator Brown and the Labor Party should be entirely ashamed of themselves.

Senator Bob Brown—Mr President, the minister has just misrepresented me, so I will take the opportunity to correct the record about his failure at the end of question time, unless you would like me to do it now.

The PRESIDENT—You are stating that you have been misrepresented, are you?

Senator Bob Brown—Yes, the minister has misrepresented me.

The PRESIDENT—There is another time when you can deal with that matter.

Whaling

Senator O’BRIEN (2.10 pm)—My question is also to Senator Ian Campbell, the Minister for the Environment and Heritage. I draw the minister back to his comments of 22 June last year, at the end of the International Whaling Commission meeting, when he said:
Australia and pro-conservation nations have today won a massive victory for whale conservation. This is a fantastic outcome because it reinforces Australia’s determination to ensure all commercial and so-called ‘scientific’ whaling is consigned to the dustbin of history.

Didn’t Japan win more votes than ever at this year’s IWC meeting? Won’t Japan slaughter more whales this year than ever before? Doesn’t this mean that the minister’s sole focus on trying to end the whale slaughter through the IWC has totally failed? Since claiming a ‘massive victory’ and asserting that scientific whaling has been consigned to ‘the dustbin of history’ in 2005, can the minister indicate how many whales he thinks the Howard government has saved?

Senator Ian Campbell—I do not think Australia can do this historic work of keeping the moratorium in place by itself. We know it cannot do that. It can do it, as we have shown successfully in the last two years, by building up the pro-conservation vote and getting the countries that have a like mind to Australia to work together. They are now doing that in a way that has not occurred since prior to the moratorium coming into force, which I remind Labor Party senators—in fact, all senators—was a historic change of policy put in place by Malcolm Fraser’s Liberal government. It has been a bipartisan policy ever since. It is really only under the Beazley Labor policy desperation that you see this sort of carping and whining and undermining of the Australian position—a virtually unheard-of undermining of Australia’s position—while, as I say, we have a dedicated Australian delegation, including people like Nicola Beynon from the Humane Society, representatives from Project Jonah and dedicated officials from Foreign Affairs and my own department, working with like-minded countries from around the world. And yet we get this constant carping and whingeing.

I really need to focus on this constant red herring that Labor, and I think sometimes others, introduce that there is some silver bullet in legal action. I did take the opportunity in St Kitts to meet with Minister Carter from New Zealand and Minister Bradshaw from Great Britain, as well as Sir Geoffrey Palmer, who was a former Labour Prime Minister of New Zealand and who has been an IWC commissioner for many years since, as well as a member of international courts and a distinguished international lawyer in his own right. Each one of those distinguished people, who I suspect know a lot more about the legal side of the Whaling Commission than either the senator who asked the question or the Labor Party spokesman, has reached the conclusion that legal action is entirely unlikely to be successful.

That was reinforced when I discussed it with and in fact read a book written by Professor Alexander Gillespie from the University of Waikato in New Zealand, who was at the conference as part of the Kiwi delegation, who reaches the same conclusion. I would be happy to refer anyone who thinks that there is a silver bullet in taking legal action to that. The reality is that keeping the moratorium in place and keeping a strong group of like-minded countries and maintaining a majority at the International Whaling Commission has ensured that tens of thousands of whales have been saved. If the moratorium fails or if it is unwound, that will see thousands of whales beginning to be slaughtered again.

On the issue of scientific whaling, we have made it quite clear as a government that using the scientific provisions as an excuse for commercial whaling—which is done by both Iceland and Japan; Norway does only commercial whaling—is an abuse. It really is something that needs to be brought to an end. We know that working in the whaling com-
mission is the only practical place to achieve that.

We need to turn to what the Labor Party did when they were in this situation. The last time there was an increase in the whale intake under the scientific provision was when the Labor Party was in power. They did not take legal action. They received the same advice that we did. They also did nothing in terms of the diplomacy side. On not one single IWC mission did Labor send a minister, nor did they take international concerted action in creating a cooperative body. The Labor Party really have a shameful record in this regard. (Time expired)

Senator O’BRIEN—Mr President, I ask a supplementary question. I note the minister chose not to answer the part of the question that went to whether Japan would slaughter more whales this year than ever before, and I invite him to address that part of the question. I would also like the minister to explain why none of the Pacific nations he visited prior to the 2006 meeting joined with Australia in voting against Japan last week. Doesn’t this demonstrate that the minister’s overblown rhetoric and abuse of opponents has proven to be a diplomatic disaster in our own region?

Senator IAN CAMPBELL—It seems that the Labor Party cannot even understand what occurred. It has been well covered in the newspapers. The reality is that Kiribati and the Solomons both abstained on the key votes. That is a great achievement from countries that have very close relationships with Japan and have traditionally always supported Japan. Abstentions, even if Senator O’Brien cannot understand it, are incredibly important when you are down to those sorts of votes.

The reality is that the only country that did not help in some way in relation to our efforts at the IWC this week was in fact the Marshall Islands. They did say that they would keep an open mind about it. I have said that it did not seem to me, from the way they voted, that they did have an open mind. But I do not browbeat these countries. I will keep working with Nauru, for example. We had a very good meeting with Pacific island countries, hosted by Australia and New Zealand. We will keep working with them. That is what you have to do if you want to win this fight. (Time expired)

Family Policies

Senator PATTERSON (2.17 pm)—My question is to Senator Santoro, the Minister for Ageing. Will the minister please advise the Senate what measures the Australian Howard government is introducing to improve the economic wellbeing of Australian families?

Senator SANTORO—I thank Senator Patterson for her question and, in doing so, acknowledge her great contribution to the improvement of the welfare of millions of Australians in her previous capacity as the minister responsible for the department on behalf of whom I am speaking at the moment. Australian families will benefit from budget measures which will come into effect between now and 1 July. These measures are a result of the Howard government’s success in eliminating $96 billion in net debt that the Labor Party left behind when thrown out of office in 1996. The budget is in surplus for the ninth time in 10 years, forecast to be $10.8 billion in 2006-07.

Helping families is one of the highest priorities of the Howard government. A number of these measures will come into effect between now and the beginning of the 2006-07 financial year—1 July. From 1 July the family tax benefit part A income threshold will increase from $33,361 to $40,000. Since 1996 this government has doubled assistance to families through the family tax benefit
system. Maximum payments per child have risen from around $2,400 to $4,200 a year. This will provide additional assistance to Australian families at a cost of $993 million over four years. The government will expand eligibility for the large family supplement to include families with three children, with effect from 1 July this year. Additional assistance will also be provided to nearly 350,000 Australian families with the payment of an extra $248 a year.

We are also deeply committed to assisting older Australians. We will be providing an additional one-off payment through a utilities allowance to age pensioners, or a seniors concession allowance to certain self-funded retirees who do not get pensioner concessions, of $102.80 to each pensioner household and each self-funded retiree to be paid between 21 and 30 June. We are also recognising the important role of carers in the Australian community through an extra $600 for those receiving carers allowance and an extra $1,000 for those receiving carer payments, to be paid this month. It is estimated that around 370,000 people will receive this additional payment. It will not affect carers’ social security entitlements and the bonuses are tax free.

Families are entitled to share in the benefit of strong economic growth and good economic management. Undisciplined spending, economic uncertainty and policy backflips—all the hallmarks of the ALP, of course—would endanger this position and jeopardise the gains made by families. These measures are positive proof of the Howard government’s commitment to Australian families.

Environment: Endangered Species

Senator LUNDY (2.20 pm)—My question is to Senator Campbell, Minister for the Environment and Heritage. Is the minister aware of reports expressing concern about the future of a $700 million pulp mill project in South Australia because of fears for the endangered red-tailed black cockatoo? Has the project been referred to the Commonwealth under environmental protection law, meaning that an assessment will have to be made by the Commonwealth as to whether the pulp mill goes ahead? Hasn’t the minister, under media pressure, undermined these controls by telling the Australian last night that the project was likely to get federal approval?

Honourable senators interjecting—

Senator LUNDY—Can the minister now indicate whether, when assessing this project, he will apply the Bald Hills wind farm formula, where a major project was shut down because of a one in one thousand year risk of killing an orange-bellied parrot, or will the minister apply the Heemskirk wind farm formula, where a project was given the all clear, even though it was directly in the flight path of the very same orange-bellied parrot? Aren’t the minister’s key considerations in decision making political and not environmental?

Honourable senators interjecting—

The PRESIDENT—I remind senators that interjections are disorderly, but I also remind those asking questions that there are certain time limits, and that particular question was quite long.

Senator IAN CAMPBELL—Yes, I have seen the reports in the press today about the pulp mill proposal. I made a statement last night because the reporting has been incredibly inaccurate. Because we have a very strong, internationally recognised environment law in this country of which we should all be proud, the Department of the Environment and Heritage receives about 300 referrals a year. The pulp mill one is one of 300, so we deal with these probably more than once a day. I was told by my department, when I touched down on returning
from St Kitts yesterday afternoon, that this was an entirely routine referral, that it would most likely be dealt with on the documentation, as most of them are, that it would not require an environmental impact assessment statement, and that it would normally not even reach my desk. So it seems to me that people are beating this up.

In relation to the Bald Hills proposal, Labor seeks to misrepresent a report about this species, the orange-bellied parrot. There are only 50 breeding pairs left in the world. In fact, it is compared by the Victorian government on their own website to being as endangered as the panda or the Siberian tiger. The Victorian government has either stopped or relocated around a dozen projects as a consequence of that. That is the same Victorian government that stopped a wind farm proposal only 200 kilometres from Bald Hills because of threats to wedge-tailed eagles only nine months ago. We know that the Labor Party firstly have very poor credentials on the environment, and that their environmental policy has not changed in about a decade. They simply do not care about Australian native species, either at the federal level or the Victorian level. The Labor Party really needs to work a little bit harder on environmental policy.

Yes, we have a strong environmental law, but, in relation to this proposal for a pulp mill in Penola, my department advises me—and I correctly put that into the press overnight—that this is an entirely routine matter and one of about 300 we would receive every year. We obviously make sure that Australian wildlife are cared for and that approvals are given in a way that protects Australian wildlife. But we also balance that against the incredibly important role of the Australian government to create strong economic growth and to get fantastic, world-class environmental outcomes. Those outstanding environmental outcomes come from a government that not only manages the economy well but also delivers the best environmental outcomes this nation has ever seen, and from a government that spends more money on the environment and also enforces the environmental law in a way that previous governments could possibly only dream of.

**Senator LUNDY**—Mr President, I ask a supplementary question. I note the minister did not answer the specific questions, but I ask: don’t concerns about the Penola pulp mill show that the minister’s grossly political decision to block the Bald Hills wind farm, on the basis that one parrot might be threatened every thousand years or so, has created significant uncertainty for infrastructure investors? Can the minister guarantee that any decision about the Penola pulp mill will be made on the basis of a proper environmental assessment and not, as was the case with Bald Hills and Heemskirk wind farms, on the basis of political considerations? A guarantee, please, Minister.

**Senator IAN CAMPBELL**—The decision at Bald Hills was not made because of a threat of one bird loss per one thousand years. That was in fact a Goebbelsian interpretation of the report by Biosis done by the Victorian government—the same Victorian government that stopped a wind farm last year 200 miles from Bald Hills because of a wedge-tailed eagle that was not even threatened. The risk to the orange-bellied parrot is that if you lose one every year you will wipe the species out. The Labor Party would like to see the orange-bellied parrot wiped out. We are very happy to protect Australian wildlife, but also to ensure that we have a strong economy.

**Telecommunications**

**Senator HUMPHRIES** (2.27 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technol-
ogy and the Arts. I ask the minister: could she update the Senate on any evidence regarding the success of the government’s competitive telecommunications regime, and is she aware of any alternative policies?

Senator COONAN—Thank you, Senator Humphries, for your ongoing interest in telecommunications. Senator Humphries would be well aware that the evidence is mounting in support of the government’s competitive telecommunications regime. The latest ACCC reports on competitive safeguards and the prices paid for telecommunications services in Australia have now been released. I am very pleased to inform the Senate that the ACCC has reported a major reduction in the average overall price for telecommunications services, and a more competitive environment in 2004-05.

The key result for the 2004-05 financial year is that overall average prices paid by consumers for telecommunications services fell in real terms by a further 6.6 per cent. It is one of the biggest overall drops in telecommunications prices that Australia has seen. Prices had already fallen by 20 per cent since the government’s competitive reforms in 1997, and this further 6.6 per cent decrease in prices now takes the overall reduction in prices since 1997 to 26.2 per cent—that is more than a quarter. Despite the hysteria from some, the claims that the government should own phone companies to effectively regulate them is simply not borne out by these kinds of results, and the government system is working. Service standards have improved, new services are available in regional areas which, just a few years ago, were making do with party-line services and, of course, now prices have fallen by a quarter.

The ACCC report found that mobile phone prices fell the most, with a 13 per cent reduction in 2004-05 and a 36 per cent reduction in mobile phone prices since 1997. There were also significant reductions in the prices for national long-distance, international long-distance and fixed-to-mobile calls, continuing the trend of the previous six years.

A second ACCC report tabled this week, the Telecommunications competitive safeguards report for 2004-05, shows ongoing progress in the development of competition, new technologies becoming available and, of course, the industry on the verge of making significant advances in service delivery. Quite apart from being a short answer, it is a very succinct one. It shows that this government’s policies are working to deliver real benefits to consumers in Australia, while the Labor Party, I am sad to say, continues to be trapped in the past, pushing a one-dimensional policy of owning the phone company. Consumers continue to reap the benefits of a competitive market.

There is no doubt that there are no alternative policies that would amount to a coherent telecommunications policy, but this government will continue to do the things that make all the difference to how people can live, work and do business in rural and regional Australia and still have access to good communications.

Active After-School Communities Program

Senator FIELDING (2.30 pm)—My question is to Senator Coonan, the Minister representing the Minister for the Arts and Sport. I draw the minister’s attention to the Active After-School Communities program, which aims to get Australian children more involved in physical activity outside school hours, and the fact that the Australian Sports Commission, which oversees the scheme, is pushing to have it extended to all primary schools across Australia. I ask the minister: will the government provide immediate
funding to ensure that this important program can be offered to children at every primary school in the country?

Senator COONAN—It is certainly the case that this government takes very seriously the need for children to be engaged in an after school program. It is important for not only their general physical wellbeing but also their mental wellbeing. There is no doubt that the government will continue to organise and arrange for children to have access to after school programs. As to how the program is further augmented, that is a matter that I will ask Senator Kemp about and I will provide you with more particulars.

Together with arrangements relating to this government’s concerns about junk food and children’s healthy lifestyles, the extent to which we can ensure that after school programs give children the ability to engage in sport and activities that will continue to ensure that they have a very full and comprehensive program of physical education and involvement is something that we will very much augment and take on board.

Senator FIELDING—Mr President, I ask a supplementary question. Given that 27 per cent of children in Victoria are overweight or obese and that number is growing by one per cent each year, doesn’t the government believe that this is an urgent issue that should be addressed immediately?

Senator COONAN—I think that it is generally acknowledged within the community that the causes of obesity amongst children are quite complex. It cannot be put down to one factor. The kind of leadership role that the government can have in assisting parents to have responsibility for their children’s diet and activities obviously requires more than just one approach. It is certainly the case that the Building a Healthy, Active Australia initiative will help address both overweight and obesity issues for children. The Active After-School Communities program and other policies relating to junk food, which feed into these issues, are issues that the government will continue to take very seriously and will continue to implement.

Fishing Industry

Senator SCULLION (2.34 pm)—My question is to Senator Abetz, the Minister for Fisheries, Forestry and Conservation. Will the minister update the Senate on the status of the Howard government’s measure to ensure a sustainable and profitable fishing sector in this country? Is the minister aware of any alternative policies?

Senator ABETZ—I thank Senator Scullion for his question. I note his interest in, and knowledge of, our important fishing sector. I can inform the Senate that, about half an hour ago, tenders closed for the $150 million Commonwealth Fishing Concession Buyback—the centrepiece of the Howard government’s $220 million Securing our Fishing Future package. The $220 million package, developed by my predecessor, Senator Ian Macdonald, is designed to ensure the long-term sustainability and profitability of our vital fishing industry.

Probity requirements mean that I am not informed as to how many fishers have submitted a tender for either a complete buy-out or rationalisation of their fishing business. I can say that the $150 million which the Howard government has put on the table is a once in a lifetime opportunity. In fact, it is the largest structural adjustment package ever offered to the Australian fishing industry. The package was developed in consultation with the fishing industry and was designed to improve the sustainability and profitability of the Commonwealth fishing industry and to ensure that those fishers who want to leave the industry or rationalise can do so with dignity while those who want to
remain can better position themselves to be profitable.

This is about taking decisive action today to ensure we have a strong fishing industry tomorrow—the long-term, visionary nation-building policies for which this government is recognised. The sad fact is that a number of our Commonwealth fisheries are in trouble. Put simply, there are too many fishermen chasing too few fish. As a result, many fish stocks are under pressure and many fishermen are doing it tough. In recognition of this, Senator Ian Macdonald obtained this generous package.

I was asked about alternative policies. Firstly, all sides of this chamber believe that what we are doing is the right course of action, and for that I thank all senators. However, I do want to make the point, particularly to those in this place who want more and more of our fishing resources locked up, that we as humans have an inalienable right to harvest our natural resources in a sustainable way. We as humans are a legitimate part of the ecosystem, and that extends not only to our natural resources on land but also to the resources of the sea. Fishing is a great contributor to our regional economies and seafood is of great benefit to human health.

What this package provides, as do other measures such as the new south-east marine protected areas, with which Senator Colbeck was actively involved, is a sensible balance between the legitimate needs and our responsibility to conserve for future generations. This is the hallmark of this government’s approach to managing the environment: balance. We did it in the Tasmanian forests and we are now doing it in our oceans. It is expected that successful tenders to our restructuring package will be announced in early August. I look forward to updating the Senate on the outcomes when we resume at that time.

Community Grants

Senator CAROL BROWN (2.38 pm)—My question is to Senator Santoro, Minister representing the Minister for Families, Community Services and Indigenous Affairs. Is the minister aware of yesterday’s audit report criticising the government’s administration of $1 billion worth of community sector grants that were awarded last year? Didn’t the Audit Office find that 19 per cent of grants involved incorrect payments or payments being made without authority, only nine per cent of grant recipients provided proper audited financial accounts as required and 88 per cent of multiyear agreements did not have proper authorisation under the financial management act? Don’t these findings mean that potentially hundreds of millions of taxpayers’ dollars a year are being inappropriately paid or remaining unaccounted for through these grants? Why has the government been so slapdash in its treatment of $1 billion worth of community grants and left taxpayers exposed to significant risk?

Senator SANTORO—The Department of Families, Community Services and Indigenous Affairs has agreed to the recommendations of the Australian National Audit Office. Only 122 agreements were examined in the audit. While there were issues found, work has already commenced. I can advise the Senate, on a number of initiatives to address these. This work started before the ANAO had even finished its fieldwork. ANAO found that appropriate funding agreements were in place for almost all grants that it looked at. While some issues were found with the Emergency Relief Program in particular, FaCSIA has undertaken action to address these with new funding agreements for all grants put into place before 1 July 2005.

FaCSIA has undertaken a number of reforms aimed at improving its performance.
management framework. The ANAO considers that these reforms have the potential to deliver useful performance information. The ANAO found that 94 per cent, all but six per cent, of the funding agreements used appropriate agreements. In relation to acquittals, 94 per cent had sufficient information to satisfy performance requirements.

Senator CAROL BROWN—Mr President, I ask a supplementary question. Isn’t it the case that failing to properly manage a $1 billion grant program leaves the system wide open to abuse? Don’t Australians have every right to be cynical about the Howard government’s politically motivated abuse of taxpayer funded grants in the wake of the regional rorts scandal? Can the minister now provide an absolute assurance that every last cent of the $1 billion community sector grants program has been properly administered and acquitted?

Senator SANTORO—The government do not accept that we are in any way mismanaging the $1 billion worth of programs and funds that the senator refers to. We will continue to administer all programs, including the $1 billion of funds that the senator has mentioned, in a responsible and responsive way.

Child Sexual Abuse

Senator MURRAY (2.41 pm)—My question is to the Minister representing the Prime Minister, Senator Minchin. This question refers to the matter of the sexual assault of children and is addressed to Senator Minchin because it is a question of national importance requiring prime ministerial and government leadership. Senator Minchin, have the government and particularly the cabinet now absorbed the lesson spelt out by a number of Senate reports that a harmed child invariably results in a harmed adult, with consequent long-term and costly social and economic consequences? Did the government take note of last night’s ABC Lateline program on the issue of the sexual assault of children and the failure of the various authorities to act in response to reports? This failure, I might say, replicates the failure to address the sexual assault of institutionalised and in-care children last century. What are the Prime Minister and his government doing to address the problem of the past and present sexual assault of children in Australian society?

Senator MINCHIN—I do not have immediately available to me a full statement of the government’s position on what is a complex matter in answer to the multifaceted question that you have asked. Obviously everyone in this government is vitally concerned about ongoing child sexual abuse wherever and in whatever circumstances it occurs. There is no magic wand you can wave. We have to work through COAG with state and territory governments, local communities, all the voluntary organisations, churches et cetera. You are quite right to identify what is a massive national challenge, something that perhaps in the past has not been as obvious to the community. I am sure these sorts of nefarious practices occurred in the past without the sort of spotlight put on them that is now much more the case. These things are much more on the national agenda now than perhaps they used to be, and thank God for that.

I would be happy to seek to obtain a more formal statement for Senator Murray of the considered government response to all the issues that he has raised, because I am not enabled to do that at the moment. I did not have the benefit of seeing the Lateline program last night, so I am not sure what he is referring to there.

It is of particular concern. Everybody in this place feels it personally, I am sure, particularly those of us with children, when we
hear the appalling stories of child sexual abuse, particularly in Aboriginal communities. Those of us who have spent time in Aboriginal communities, as I did when I had responsibility for native title, and know much that is of value in them—such as the traditions that they have and their connection to their land—can only be saddened to hear that that sort of depravity can occur in modern-day Aboriginal society.

It is no good lecturing anybody about that. It is a requirement on the part of all governments and all people in positions of responsibility—from local communities right through to the national government—to find ways to deal with this. Much of it goes to raising standards of living and providing hope and opportunity in many of the communities that are deprived, where these sorts of circumstances occur. You do find, I think, a connection between child sexual abuse and economic impoverishment or a lack of hope and of job opportunities. The more successful the community the less likely these things are to occur. I hate to sound like an economist, but we try to ensure that the prosperity of this country is more widely available to many more communities and that families remain together.

We see evidence of this when families break up, which is one of the saddest things. We have brought in initiatives in relation to family unity—the family relationship centres—to ensure that we deal with family break-up in a more practical, sensitive way and to minimise family break-up. I think all of these things go to the mosaic, but I am not suggesting that this government or any government has a simple wand. I share Senator Murray’s concern for the issue. I think it is right that he and other senators ensure that it stays right up there on the national agenda, because the saddest thing is that innocent children are the victims of what he describes.

Senator MURRAY—Mr President, I ask a supplementary question. I thank the minister for his response, and I do hope that, at the cabinet level at least, these questions will become front of mind and a regular issue until the problem is being managed better than it is at present. Senator Minchin rightly acknowledged that these problems stretch decades back. Does the minister agree that what is less understood is that these problems will stretch decades forward—that a child of 10 being harmed now will often still be a harmed adult in 60 years time? I understand that this government expects its economic legacy to be a strong one, so I ask: Minister, what is going to be your government’s social legacy? Will there be more or will there be fewer harmed children after your tenure in government?

Senator MINCHIN—Senator Murray is quite right to say that the regrettable part of child sexual abuse is that it does stay with the victims for life. The most critical thing that I and I think members of the government would say is that sustaining the real growth in wealth in this country, ensuring the distribution of that wealth, ensuring we do our utmost to maintain intact families and providing jobs, opportunity and hope for Australians is the sort of legacy that we would like to leave.

Westpoint

Senator WORTLEY (2.48 pm)—My question is to Senator Coonan, Minister representing the Assistant Treasurer. Can the minister confirm that the $300 million worth of losses suffered by 4,000 mum-and-dad investors in the Westpoint collapse were largely due to a loophole in the government’s laws exempting promissory notes greater than $50,000 from the Corporations Act? Is the minister aware that the then Parliamentary Secretary to the Treasurer, Senator Ian
Campbell, said about this issue, as long ago as January 2003:
If there is a vacuum we are making sure it is closed quickly.

Didn’t Senator Campbell also indicate, in May 2003, that ASIC had commenced regulatory action in relation to Westpoint and that the government would consider legislative change should any regulatory gap be identified? Did Senator Campbell ever follow up on his promise to close this regulatory gap or did Senator Campbell simply allow the loophole in the Corporations Act to remain, resulting in investors losing hundreds of millions of dollars through the Westpoint scandal?

The PRESIDENT—Order! That is another very long question. I remind people asking questions to observe—

Opposition senators interjecting—

The PRESIDENT—Order! That was well over a minute.

Senator COONAN—Thank you to Senator Wortley for the question. I assume that Senator Wortley is referring to an article in the Financial Review, because that is where the Labor Party usually gets its inspiration for these sorts of questions. But it is wrong; there is no legal loophole. In 2003, ASIC engaged Westpoint in discussions about structuring its fundraisings as regulated offerings and subsequently started court action in the Supreme Court of Western Australia when those discussions failed. The Supreme Court of Western Australia ruled that the fundraising activities of Westpoint in question amounted to the offering of interest in managed investment schemes. Managed investment schemes are in fact fully regulated through a separate chapter, 5C, in the Corporations Act 2001. Managed investment schemes are already financial products as defined in the act and therefore fall under the licensing and disclosure requirements contained in chapter 7 of the act.

The recent appeal decision of the Supreme Court of Western Australia has not changed the situation with regard to Westpoint type schemes that are subject to the current law—that is, there is no loophole. ASIC does have the powers it needs to ensure that proper disclosure of information to retail investors is provided and that such schemes are competently run in the interests of members. The regulation of financial services has been substantially reformed since the Westpoint schemes were first offered but, based on these court decisions, there is no apparent regulatory gap under the current law.

Senator WORTLEY—Mr President, I ask a supplementary question. Is the minister aware that ASIC indicated in the Australian Financial Review on 16 June 2006 that it would be powerless to shut down another Westpoint style scheme due to regulatory loopholes which still remain under this government’s laws? Why, three years after Senator Campbell’s promise to act quickly, is the government still refusing to act to close this loophole to protect mum-and-dad investors from Westpoint style schemes? Do we have to see another scandal of the magnitude of the Westpoint collapse before there is any action?

Senator COONAN—I do not know on what possible basis Senator Wortley could have based that series of supplementary questions when I have said that there is no current loophole.

Opposition senators interjecting—

The PRESIDENT—Order! Senator Brown, I would remind you of standing order 185.

Howard Government

Senator BERNARDI (2.52 pm)—My question is to Senator Minchin, Minister for
Finance and Administration and Leader of the Government in the Senate. Will the minister inform the Senate of how the government will be working over the winter recess to improve the wellbeing of all Australians? Is the minister aware of any alternative approaches?

Senator MINCHIN—I thank Senator Bernardi for that very good question. Yesterday I reported to the Senate on the benefits that will flow to Australian families from 1 July as a result of our tax cuts and the increased family assistance contained in the budget. That is just one of the ways in which families will benefit over the winter recess as a result of our government’s ongoing work to make this a better country. Australia has come a very long way in the last 10 years. We have enjoyed continuous economic growth, rising real wages, low inflation and unemployment at 30-year lows. Inequality has been reduced due to increased employment and the government’s system of family payments. Net debt has been eliminated entirely, allowing us to increase spending on national security, education and health. Educational attainment is rising. The incidence of major diseases is falling and life expectancy is among the highest in the OECD.

Next week, the Prime Minister will be at COAG working to further develop a new national reform agenda based on human capital, regulatory reform and further competition reform in areas like water and energy. Also at COAG, the government will be further developing its $1.8 billion mental health package in cooperation with the states. Next week, the government will transfer $800 million to the New South Wales government to accelerate the duplication of the Hume Highway. We will also transfer next week $500 million to the Murray-Darling Basin Commission for vitally important work to help restore the health of the Murray River, which I know is of particular concern to Senator Bernardi.

From 1 July, we will be implementing our welfare reforms to encourage participation in the workforce and help job seekers improve their skills and employability. Senator Coonan will be further developing reforms to our media sector. The Treasurer will be consulting on our significant reforms to the taxation of superannuation due to take effect in about a year’s time, which of course not only reduces the tax burden on savings but also dramatically simplifies the superannuation system. The Deputy Prime Minister will be in Geneva, working hard to secure a deal for Australian exporters from multilateral trade talks. On all of those fronts, the government will be working hard to implement good policy and further improve living standards and the broader quality of life of all Australians.

That does beg the question, as referred to in Senator Bernardi’s question, as to what the so-called alternative government will be up to over the winter recess. They appear to have wasted most of this parliamentary session with what has now been exposed as a discredited attack on Work Choices without ever advancing a single positive policy. The only policy they have announced in this session was of course a negative one—‘We’ll abolish AWAs.’ That was the great idea of the Labor Party—to scrap AWAs. They have been roundly condemned by business, most economic commentators and indeed from within their own ranks for a proposal to scrap a policy which only recently Mr Beazley said would remain. Now it is out as a result of the strings being pulled by the union puppeteers.

After only two years since the last election and 10 years in opposition, the Labor Party still do not have a policy agenda of their own. They do not have a detailed alternative plan for how they would run this national
economy or how they would raise living standards. The challenge for Mr Beazley and the Labor Party is to spend the winter recess putting forward their alternative vision. We are not optimistic, but we wish you well.

**Westpoint**

**Senator POLLEY** (2.56 pm)—My question is to Senator Coonan, Minister representing the Assistant Treasurer. Is the minister aware that the spokesman for the Treasurer is quoted in yesterday’s *Australian Financial Review* as saying that the government believed that the existing law was sufficient to regulate Westpoint-style schemes? Is the minister also aware of ASIC’s consistent claims that they have no power to protect investors in such schemes due to loopholes in the Corporations Act? Given the difference of opinion between the government and its watchdog—which potentially means that ASIC could have acted before the Westpoint collapse—can the minister advise who she thinks is correct? Can the minister also explain why the government still has not fixed the loophole that led to massive losses for 4,000 Australian small investors when Westpoint collapsed?

**Senator COONAN**—I thank the senator for the question. I have already provided the answer to that in answer to Senator Wortley: there is no legal loophole.

**Senator POLLEY**—Mr President, I ask a supplementary question. I will say about the minister that she is consistent in not answering questions. My supplementary question is: is the minister also aware that the Treasurer’s spokesman has also indicated that ASIC had the power to close down Westpoint high-risk schemes in 2004? If this is the case, can the minister explain why ASIC did not close down Westpoint in 2004? What action is the government now taking in response to the lack of action by the regulator?

**Senator COONAN**—The same answer applies. ASIC does have the powers it needs to ensure that there is proper disclosure of information to retail investors and that the schemes are competently run in the interests of members. The regulation of financial services has been substantially reformed since the Westpoint schemes were first offered. Based on the existing law and the current court decisions, there are no current loopholes.

**Centrelink**

**Senator FERRIS** (2.59 pm)—My question is to the Minister for Justice and Customs, Senator Ellison, representing the Minister for Human Services. Can the minister inform the Senate of how Centrelink is helping parents and people with a disability to obtain work? Is the minister aware of any alternative policies?

**Senator ELLISON**—The Howard government views work as a first option and taxpayer funded welfare as a second option. There are many people in the community with disabilities who want to work, and that is precisely what we will be doing in relation to the job capacity assessments when that kicks in on 1 July. We will be looking at around 37,000 customers a year and providing more streamlined and comprehensive assessments for them in relation to their work capability and connecting them to the service that they need. This is an essential part of promoting the self-esteem and personal circumstances of those people who have a disability.

Job capacity assessors will have access to a new stream of funding in the job capacity account. The account will allow the JCAs to fund short, sharp programs to help job seekers overcome work barriers associated with disability, illness or injury. This new arrangement for the job capacity account will commence, as I say, on 1 July this year and...
funding for the account is approximately $25 million a year for three years. This spells good news for those people who want to find work who have a disability and want to be assessed in an appropriately streamlined fashion.

While on the subject of disabilities, I want to close on this point: I urge all senators to participate in the Adopt A Politician scheme, which we have in my home state. Senator Webber is a member of that, as are Senator Campbell and I. I understand Senator Sterle and Senator Siewert will be joining the scheme. This is a commendable one where a family with a member with a disability adopts a politician, and you work very closely with that family. It operates very well in Western Australia. I am giving it a plug and I would urge all senators to see it set up in their home states.

Senator Minchin—Mr President, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Indigenous Affairs

Senator SANTORO (Queensland—Minister for Ageing) (3.01 pm)—Yesterday Senator Bartlett asked me a question and a supplementary question on Indigenous affairs. I undertook to provide further information and I seek leave to have my further response incorporated in Hansard.

Leave granted.

The answer read as follows—

The government believes that good governance is critical in the administration of Aboriginal communities. Where this does not exist and where the wellbeing of those communities is being threatened, the necessary administrative changes will be made. This is the same as occurs throughout the mainstream local government system from time to time.

In relation to the specific instances to which Senator Bartlett referred I am advised that the Pukatja Community on the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands is not facing a shutdown. FACSIA Program Funding Agreements have yet to be offered to any community or service provider.

The current time frame is consistent with other years and no APY Lands community will be shut down. There is no Administrator appointed to Pukatja, or any other community on the APY Lands, nor will Indigenous staff replaced.

The decision to appoint Advisers for the APY Lands in 2004 was made by the South Australian State Government.

The State Government Advisers did not replace sacked councils.

The State Government Adviser role was discontinued when Mr. Bob Collins had a serious car accident preventing him from continuing in the role.

The Australian and State Governments fund a wide range of programmes and projects on the APY lands but there are no Australian or State Government appointed Administrators.

Australian and State Government efforts in the APY lands are focused on better co-ordination and linkages between Anangu people.

Active After-School Communities Program

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (3.02 pm)—I wish to add to an answer I gave to Senator Fielding concerning the Active After-school Communities Program. I can give him some particulars: firstly, I should say that the program is free as an after-school structured physical activity and sports program and is offered during the 3 pm to 5 pm slot. It provides a range of physical activities designed to improve motor skills development, which includes but is not limited to sport.

The pilot program began with 22 schools out of school hour care services across the country, including Spreyton Primary School.
in Tasmania, Spencer Park Primary School in Western Australian and Katherine Primary School in the Northern Territory. Support and demand for this program have been overwhelming, with 1,583 schools participating in the program in term 1. All up, an additional 1,169 schools are joining in the program in 2006, and the government aims to involve around 3,000 primary schools and child-care benefit approved centres with the program by term 3, 2007. The government will continue to monitor the demand with a view to deciding how and whether to extend the program.

Asylum Seekers

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural Affairs) (3.03 pm)—In answer to a question to Senator Nettle earlier in the week, I gave an undertaking I would get back if I had further information. I do—I have only just noticed part of it in my folder; I had it there in question time yesterday. I am not sure whether you asked me yesterday or the day before, but in any event I have got the answer. It is simply that the Red Cross, by way of correspondence, did seek to offer support or assistance to the family to whom you refer. Those letters were provided to the family and interpreted, and the offer was declined.

Humpback Whales

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (3.04 pm)—Yesterday Senator Siewert asked a question of Senator Abetz, who was representing me in my role as Minister for the Environment and Heritage. It was in relation to the entanglement of whales and interactions with the western rock lobster industry. I have some detailed information, which I seek leave to incorporate in Hansard.

Leave granted.

The answer read as follows—

Senator Siewert yesterday asked about migrating whale populations in WA and interaction with the Western Rock Lobster Industry.

The Australian Government is very concerned about humpback whales and leatherback turtles being entangled in any fishing gear or marine debris.

Improved fishing practices are the key to reducing whale and turtle entanglements in all fisheries.

The Western Rock Lobster Council in conjunction with the WA Department of Conservation and Land Management has developed a code of practice for reducing whale entanglements, this includes ensuring that lobster pot lines are properly tied off to remove slack thus greatly reducing the chances of whales being caught in the ropes.

As part of the Government’s ongoing effort to reduce entanglements, my Department is working with the Western Australian Government and the Western Rock Lobster fishery to seek further improvements in fishing practices and reinforce adherence to the code of practice by the fishery.

I am aware that there have been four reported cases of Humpback Whales being entangled in gear from the Western Rock Lobster fishery since the start of this year’s migration season in May 2006.

I am pleased to report that all of these whales were successfully freed from the entanglement by State government officials specially trained in disentanglement techniques.

There was a fifth whale entanglement reported by a fisher but not necessarily entangled in gear from that fishery—the whale was apparently entangled in unknown marine debris—however WA officials were unable to locate the animal so that report is unconfirmed.

The Australian Government supports a range of initiatives to respond to entanglements including training operational personnel tasked with disentangling whales and the development of satellite tags to help track and re-locate entangled whales.

There is no definitive information on the number of leatherback turtles entangled in this fishery. While the exact number of leatherback turtles
entangled is not known, it is estimated that 75% of these animals are released alive.

The success rate of disentangling humpback whales in the Western Rock Lobster Fishery has increased from approximately 50% in the 90’s to 100% this year. This increase is a result of promoting best practice for disentangling whales through national large whale disentanglement workshops and the good working relationship between the fishery and the Western Australian Government.

PERSONAL EXPLANATIONS

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.04 pm)—I seek leave to make a personal explanation.

Leave granted.

Senator BOB BROWN—I thank the Senate. During question time in an answer to a question on whaling, the Minister for the Environment and Heritage alleged that I would call on the government to use the same tactics as Japan on Nauru. I have done nothing of the sort. What I did point out was that the minister had failed to get the Nauru vote against commercial whaling while at the same time Australia is pouring millions of dollars into establishing a refugee camp on Nauru. I advocated that the government instead assist Nauru to turn its vote away from commercial whaling towards the conservation of whales—a very good thing to do.

Senator Ian Campbell—Mr President, I seek leave to make a short response.

The PRESIDENT—We do not want to turn this into a debate.

Senator Faulkner—Mr President, I raise a point of order. A short response is one thing but a personal explanation is another. On a second point of order, however, I am of course only a backbench senator in this place but normally I believe that leave would have been given to Senator Brown to make a personal explanation but it ordinarily would not have been given to Senator Brown between the conclusion of question time and the commencement of taking note. I do not see it as my responsibility in the circumstances that I am not responsible for chamber management and that no-one in government, the opposition or minor parties refused leave to Senator Brown. Nevertheless, there is a precedent that has been established for a long period of time. It goes to the timing of a personal explanation at the conclusion of taking note of answers to questions in question time. My own approach is facilitative in relation to ensuring that senators who wish to give personal explanations are given leave.

The reason I take the point of order is that Senator Campbell now asks for leave also, not to make a personal explanation but to make a statement or a comment, at a time that ordinarily he would not be given leave. It places the chamber in a very difficult circumstance. I do not have responsibilities anymore for chamber management, others do. But that is the circumstance in which we are placed. I would not see the granting of leave on this occasion to Senator Brown or if leave is granted to Senator Campbell as in any sense a precedent. It would be a step backwards and I hope we do not take that backwards step.

The PRESIDENT—As you would know, Senator, and as the Senate knows, a senator may seek leave at any time. If leave is granted, there is not much I can do about it in the chair. But I think everybody heard what you said.

Senator Faulkner—Mr President, on the point of order: I actually agree with Senator Faulkner and will not continue seeking leave.
QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Environment: Endangered Species

Senator O’BRIEN (Tasmania) (3.07 pm)—I move:

That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Ian Campbell) to a question without notice asked by Senator Lundy today relating to a pulp mill project in South Australia.

I have to say that the question was probably more illustrative of reality than was the answer. It is remarkable that a minister who is responsible for the administration of an important piece of environment legislation, the Environment Protection and Biodiversity Conservation Act, is keen to get out into the media and pre-empt the proper determination and consideration of matters that are the subject of that very important legislation—legislation that this government, with the assistance of the Democrats, rammed through this place, I think, on a Saturday sitting with about 15 or 20 seconds allowed to deal with each of the amendments that were required. The government own the legislation. They set up a process, and it has been handed, ultimately, to Senator Campbell to administer it.

During the last election, the current member for McMillan, Mr Broadbent, wanted to campaign against a wind farm in the electorate because there was a group of constituents who were opposed to it. He was keen to tell anyone who would listen that he would not allow the wind farm to go ahead. Then, lo and behold, on the most meagre and unconvincing evidence, he exercised his power under the EPBC Act to block the project and noted that, as has been repeated in media comment recently, the project was blocked by Minister Campbell because of a one in 1,000 year risk of killing an endangered orange-bellied parrot.

Then, we come to the issue of the application to build a pulp mill at Penola in South Australia. It is a $650 million pulp mill and the proponent of the mill says it has been put on hold whilst an assessment is made because of a proposal to cut down six potential nesting trees for an endangered cockatoo. Unsurprisingly, the mill’s project director, John Roache, is quoted in the *Age* as saying he was surprised by the intervention and concerned that the pulp mill might go the way of a Gippsland wind farm recently vetoed by federal environment minister Ian Campbell because of a one in 1,000 year risk of killing an orange-bellied parrot. One can understand that. Given the paucity of evidence justifying the decision in relation to the Bald Hills wind farm, what proponent of a project would not be concerned when the application was placed in the hands of this minister, given the propensity to prejudge projects? After all, if we look at the statements made by this minister in relation to the South Australian project, we find on the front page of the *Australian* today:

But in the wake of media coverage yesterday, Senator Campbell last night released a statement indicating he expected the pulp mill would receive federal approval.

And the minister said:
I understand the department has had constructive discussions with the proponent and preliminary advice from the department indicates that it does not expect any problems.

I would have thought that, if the minister was properly exercising his responsibilities, he would wait until all the evidence was in before he decided to make any comment on a proposal, particularly given the circumstances where he has already got himself into trouble with industry in relation to development proposals because of his totally unjustified decision in regard to the Bald Hills wind farm proposal.
If we look at the *West Australian* on 10 June, we see discussion about concern for flatback turtles and the development of the Gorgon liquefied natural gas project to be built on what is described as the pristine Barrow Island in the state's north-west. The authority's chairman is quoted as saying that his study has further highlighted the terrestrial and marine conservation values of Barrow Island and adjacent waters and flatback turtles in particular would be put at risk from the proposal, with two of the most important nesting beaches located adjacent to the proposed LNG processing plant. And he says that it is not possible at this time to identify management measures that would—

(Time expired)

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (3.13 pm)—I did not hear Senator O'Brien make one word of criticism of his comrades in the Victorian government, who used their environment protection legislation in July 2005, less than 12 months ago, to stop the Yaloak wind farm. This is located only around 200 kilometres from Bald Hills, and the same consultants who did a comprehensive analysis of the cumulative impact of bird strike from wind farms advised the Victorian Labor minister, a comrade of Senator O'Brien's, that that wind farm would kill possibly three to four wedge-tailed eagles per year. The wind farm at Bald Hills was, in my view, appropriately stopped because it was located in a known habitat, a known migratory path, for orange-bellied parrots.

The wedge-tailed eagle, which the Labor government in Victoria used to stop the construction of a wind farm at Yaloak—I apologise to the members of that community if I have the pronunciation of that wrong, which I could well have—is listed on the International Union for the Conservation of Nature's threatened species list under the lowest category of threat. In other words, it is a species of 'least concern'. The IUCN red list, as it is known, goes from the highest category of 'extinct', obviously, through 'extinct in the wild', 'critically endangered', 'endangered', 'vulnerable' and 'near threatened' right down to 'least concern'.

On the best science available, there are 50 breeding pairs of the orange-bellied parrot left in the world, and they are only found in Australia. This species of wedge-tailed eagle has around 100,000 left, but the Victorian government chose—for whatever reason; and I am not even criticising their decision—to stop a wind farm only a couple of hundred kilometres from Bald Hills because of the threat to a wedge-tailed eagle which is not listed as endangered or critically endangered. The orange-bellied parrot is referred to on the Victorian government's own conservation department website as a species that is equally as endangered as the panda bear and the Siberian tiger.

In relation to the criticism that has been made of the statement that appeared in the press this morning about the Penola pulp mill proposal, this is, as I have said, one of 300 referrals that on average come to my department every year. Around 97 per cent of these sorts of proposals are dealt with at the departmental level. Again, this is a very different process to the process for Bald Hills. As I said, most of the referrals that come to the department are handled at the departmental level. This one was described to me when I arrived back from overseas yesterday afternoon as an entirely routine one. We corrected the record because the proponents, as I think Senator O'Brien correctly cited from the press reporting, were concerned that there might have to be an environmental impact statement. My department said, 'No, that is almost certainly not going to be the case,' that in fact it was an entirely routine referral and, that, based on getting further information from the proponents, it was likely to be
dealt with in a relatively short period of time. That is why I made the statement—to confirm that.

This government, as I said in question time, is committed to having a robust environmental policy. We have invested more money in environmental repair than any other government in the history of Australia. We have brought in a very strong environmental law and we uphold it very strongly and consistently. We uphold it based on science, the basis of all of these decisions. What you hear from Labor is a confused yelling and screaming and carping and whining—from a political party that really has no environmental policy, and what little policy it does have is deeply confused and deeply confusing.

Senator LUNDY (Australian Capital Territory) (3.17 pm)—It is interesting that Senator Ian Campbell chose to end his comments on a point about confusion, because what we have seen here today is a minister who is desperately trying to confuse the issue to distract us from the fact that he has not only specifically undermined the credibility of any environmental protection policy but also has been true to the character of the Howard government—that is, a government that is willing to manipulate and twist issues of genuine concern to Australian citizens. These are issues such as environmental policy, the impact of climate change, renewable energy and genuine environment protection. He has tried to twist these issues into some short-term political gain for the Liberal Party. Environmental protection and action against climate change have been ongoing victims of this type of manipulation by the Howard government, and this environment minister stands by unconcerned and willing to participate. Two examples of this that we have seen are the Bald Hills wind farm and the threat to the orange-bellied parrot, and now we are seeing more examples of this willingness to intervene in a political way.

The political intervention in the approval of wind farms highlights two major issues which I would like to go into. The first is a willingness to bring federal environment protection policy specifically into disrepute. Using it as a political device will forever undermine the genuine efforts of organisations seeking to protect endangered species. It leaves them vulnerable to challenges as to whether or not it is genuine, because no-one will know what is motivating the environment minister. No-one can tell truth from spin or what the difference is between local Liberal political interests and genuine environmental concerns, such is the contempt of the Howard government’s environment minister for these policies. It leaves in tatters the credibility of those acts of parliament that we have debated at length. Who does Senator Ian Campbell think he has the right to undermine environmental policy and the laws of this land in this way?

The second issue this political intervention highlights specifically is the complete contempt in which the Howard government hold renewable energy per se. Many of these projects do provide long-term prospects for creating renewable energy and deriving some triple bottom line return for the Australian economy as a whole. But nowhere can we see evidence of a long-term commitment to renewable energy; instead we see attempts by the Prime Minister to focus on nuclear energy. We have no major leadership role anymore in areas like photovoltaic systems.

As Labor’s environment spokesperson, Mr Albanese, highlighted, Australian wind farm technology is going overseas at a rate of knots. We see it walking offshore—most recently following Chinese Premier Wen Jiabao’s visit to Australia, when a $300 million deal was signed by the Roaring 40s
company based in Tasmania to provide three wind farms in China. This same company said they would not be proceeding with projects in Tasmania and South Australia because of a lack of federal government support. It is fantastic that we are exporting this type of technology, but why on earth does the Howard government not have a commitment to helping these technologies to prosper here and allow Australia to maintain our leadership in this critical area of renewable energy?

It is very clear that Mr Howard’s focus on nuclear power is at the expense of clean energy industries, and these examples are testimony to that. Under Mr Howard, Australia continues to say goodbye to clean energy ideas and fails to see the investment lift to an appropriate level. If you need more evidence, we need look no further than the 2006 budget, which for the 11th year in a row did not mention climate change. There were no initiatives for clean renewable energy. This is an area in which the Howard government has systematically and consistently failed to deliver on behalf of the Australian people. All we can see is a minister prepared to manipulate for short-term political gain and undermining the credibility of environmental protection laws in this country. It is a disgrace. *(Time expired)*

Senator FIERRAVANTI-WELLS (New South Wales) (3.23 pm)—I also rise to take note of the answers given by Minister Campbell on important issues relating to the Environment Protection and Biodiversity Conservation Act. Allegations have been made in the chamber today seeking to criticise the minister in relation to a decision or consideration of a decision regarding the proposed pulp mill at Penola in South Australia. Allegations have been made that it had been halted due to impact on the endangered red-tailed black cockatoo, which was the bird used as the mascot in the 2006 Commonwealth Games in Melbourne and listed as endangered under the Environment Protection and Biodiversity Conservation Act, is restricted to an area around the South Australia-Victoria border, including the Penola area.

It is clear that the mill owner has been advised that, due to the loss of some hollow-bearing habitat trees, their mill may impact significantly on this bird. The construction of the mill would remove 25 habitat trees, and the mill proponent intends to offset that with the provision of 200 hectares of habitat for the cockatoo. While any action that triggers the Environment Protection and Biodiversity Conservation Act requires Australian government environmental assessment and approval, it is important to note that, just because a matter requires assessment and approval under the Environment Protection and Biodiversity Conservation Act, that does not mean that the proposal will be stopped; it simply means that the assessment must demonstrate that the proposal is environmentally acceptable. As the minister says, this is a routine assessment. It is a transparent process for environmental assessment, unlike the Victorian government’s decision in relation to the wedge-tailed eagle, which the minister concentrated on both in his answer to questions today and in his recent comments in response to comments previously made.

I want to take the opportunity to focus on the credentials of this government—in particular, the decisions that this government and the minister have made in relation to the nonapproval of the Bald Hills wind farm, for which he has also been criticised. Let us not forget that the decision not to approve the Bald Hills wind energy installation in Gippsland, Victoria under the Environment Protection and Biodiversity Conservation Act was only made after careful consideration of all the relevant facts and advice.
The minister has to balance the needs of development with the protection of our rare and threatened flora and fauna, ensuring that any development has to be sustainable. His decision in this regard was made on the basis of an independent report on the cumulative impact of wind energy installations, which concluded that almost any negative impact on the endangered orange-bellied parrot could be sufficient to tip the balance against its continued existence. The report concluded that, given that the parrot in question is predicted to have an extremely high probability of extinction in its current situation, almost any negative impact on the species could be sufficient to tip the balance against its continued existence. In this context, it may be argued that any avoidable deleterious effect—even the very minor predicted impacts of turbine collisions—should be prevented.

The EPBC Act requires that, in the light of such evidence, the minister take a precautionary approach to approving any development. It is worthy to note that the precarious position of the orange-bellied parrot was recently recognised by the World Conservation Union, which has included the bird on its red list of endangered species. The minister’s decision in this regard was a proper one. Unfortunately, those on the other side have not quite understood what the parameters of that act are and the importance of taking those matters into consideration. (Time expired)

Senator MARSHALL (Victoria) (3.28 pm)—The Minister for the Environment and Heritage, Senator Ian Campbell, regularly comes into this chamber full of glowing self-assessments of his achievements and full of glowing self-praise. It tempts me to remind people what is said about self-praise. When any of his claims to greatness and his self-assessment are challenged, his immediate response is that the opposition is doing nothing more than carping or whingeing. When he is confronted with some direct questioning about the rationale behind some of the decisions that he personally makes as a minister or the processes that are being made by the department for which he has responsibility, he simply dismisses the questioning as coming from an opposition that has nothing better to do than carp or whinge and he avoids giving to the Senate and to the senators asking questions meaningful answers or holding himself or his department accountable in the normal way one would expect a minister to do so.

One notable example that comes to mind is the issue of the Bald Hills wind farm project. That was a project that the local member in the area, Mr Russell Broadbent, actively campaigned against. It was also a project that had been subject to a two-year strict environmental study by the Victorian government which approved that project, and which had taken all the environmental issues into consideration before it gave approval some two years earlier for that particular project. But the minister, using the ministerial discretion that he has under the appropriate act, simply banned it on the basis that the orange-bellied parrot may be endangered by the turbines of the wind farm once every thousand years or so.

It would seem logical to most people that the orange-bellied parrot would have more chance of being struck down by lightning than of being endangered by that particular wind farm. Any sensible person could only come to the conclusion that it was more of a political decision than an environmental one, and that it was one to support—in what is considered a marginal seat—one of his political colleagues. I think it is a disgrace that a minister would, in my view, misuse his ministerial prerogative on such blatant political grounds. The $220 million Bald Hills wind farm project would have reduced Australia’s greenhouse emissions by 435,000 tonnes per year. As I said, that project was
approved two years ago by the Victorian government after a strict environmental assessment.

The minister then said, ‘I didn’t hear anyone from the Labor Party complaining about a different wind farm 200 kilometres away in Victoria that was not approved by the Victorian government,’ and asked why we were not criticising that. The same tests were applied against both farms by the Victorian government, using a strict environmental process. One passed and one did not based on environmental—not political—considerations. The minister went on to explain that the other wind farm could have endangered two to three wedge-tailed eagles per week. Two or three birds endangered per week is a very different situation to one potential death every thousand years or so. The logic of the minister in trying to give his old position some justification on the basis that the wedge-tailed eagle is at a lesser level on the endangered species list than the orange-bellied parrot and that, in his mind, he is able to reconcile those two things and say, ‘That farm should not have been given permission to go ahead based on the wedge-tailed eagle scenario,’ simply does not flow.

It is a concern that the minister for the environment does not seem to have in his mind the need for Australia to go down the renewable energy path. Wind energy technology is now moving offshore to China in order for it to be commercialised. This minister thinks that is a reasonable outcome when Australia is in the position of desperately needing to develop alternative technologies, but he does not want to provide any encouragement, does not want to set any mandatory renewable targets—(Time expired)

Question agreed to.

Child Sexual Abuse

Senator MURRAY (Western Australia) (3.33 pm)—I move:

That the Senate take note of the answer given by the Minister for Finance and Administration in the Senate (Senator Minchin) to a question without notice asked by Senator Murray today relating to the sexual assault of children.

In opening my remarks, I take the opportunity to compliment Tony Jones on the quality of his journalistic efforts last night on the ABC Lateline program on the issues of the sexual assault of children and the failure of the authorities to act in response to reports—a failure which I note replicates the same failure to address the sexual assault of institutionalised children and children in care last century, as reported on by the Senate in three committee reports by the Senate Community Affairs References Committee.

I remind the chamber of a paper that I sent to every senator and member last September. I think it was 24 pages or so long. It covered the enduring legacy of growing up in care in 20th century Australia and the lessons that could be drawn from that. One of the key lessons is that, if a child is harmed, it will invariably result in a harmed adult, with consequent long-term and costly social and economic consequences. So if a child is harmed at the age of 10, you will find six decades of troubles as a result. I will quote a few things from the paper of mine which I sent out.

I remarked on the fact that the harming of children often results in relationship problems, consequent poor parenting skills when they become parents, drug and alcohol addictions, homelessness, unemployment, antisocial behaviours and criminal activity. Also common are ongoing health problems and mental health issues, including post traumatic stress disorder, depression and suicide. One strong conclusion drawn from the Senate inquiries is that assaults, abusive treatment and neglect of children, and the resulting disconnections, result in a lifetime of social and economic consequences. Not only does this impact on individual survivors but
it can also affect multiple generations and
society at large.

The potential scale is alarming, as are the
associated economic costs. Although the di-
rect and indirect costs have not been offi-
cially quantified, anecdotal evidence and
disparate studies give some indication as to
the enormity of the social and economic
costs. For instance, involvement in welfare
related fields was indicated by one care
leaver. I quote:

Institutional abuse does not stop when we age out
of the system. Once in contact with the juvenile
justice system we have a 90 per cent chance of
becoming adult criminals. We have a one in three
chance of leaving care at 16 as girls pregnant or
already with a child. We have a one in two chance
of being homeless within that first year. Only one
in 100 of us will get to university, but one in three
of us will have attempted suicide. We are also
highly likely to wind up addicted to drugs, en-
gaged in prostitution, unemployed, mentally ill or
incapable of sustaining loving relationships.

I further quote:

This anecdotal evidence is backed up by a num-
ber of relevant studies. For instance, one study
found that 80 to 85 per cent of women in Austra-
lian prisons have been victims of incest of other
forms of abuse.

Another study of 27 correctional centres in New
South Wales found that 65 per cent of male and
female prisoners were victims of child sexual and
physical assault.

It has also been found that maltreated children are
more likely to offend in adolescence than those
children who are not.

This finding is further supported by a study of
risk factors for the juvenile justice system which
found that 91 per cent of the juveniles who had
been subject to a care and protection order, as
well as a supervised justice order, had progressed
to the adult corrections system with 67 per cent
having served at least one term of imprisonment.

To further illustrate the generational effects, an-
other prison study found that 65 per cent of
women in Victorian prisons were themselves
housed in institutions as children. It also found
that 70 per cent of these women were mothers
who were largely sole parents and that the cycle
was being perpetuated as many of their children
had become state wards while their mothers were
imprisoned.

The message I want to convey briefly is that
the sexual assault of children is not only an
issue of crime and punishment but it is also
an issue of a lifetime sentence on children.

We have to find some way of dealing with
those who have been harmed. (Time expired)

Question agreed to.

MINISTERIAL STATEMENTS

Iraq

Senator VANSTONE (South Australia—
Minister for Immigration and Multicultural
Affairs) (3.38 pm)—I table a statement on
the Australian Defence Force commitment to
southern Iraq and seek leave to incorporate
the statement in Hansard.

Leave granted.

The statement read as follows—

Earlier this week Iraq’s Prime Minister, Nuri al-
Maliki, announced the transfer of responsibility
for security in Al-Muthanna province from Coali-
tion forces to the Iraqi Government (a process
referred to as Provincial Iraqi Control).

Through the course of next month, the Iraqi Secu-

...
gade is already conducting security operations in Al-Muthanna and it contributed to the success of the December 2005 elections. In conjunction with other Iraqi security forces, these soldiers will now assume primary responsibility for security within the Al-Muthanna province.

The second key role of Australia’s Al-Muthanna Task Group has been to provide a secure environment for the Japanese Iraq Reconstruction Support Group conducting a range of important rehabilitation projects in Al-Muthanna.

These projects have included the provision of training and technical support to four hospitals; the rehabilitation of approximately 30 health clinics and 35 schools; and the completion of dozens of other infrastructure projects.

Following the Iraqi Prime Minister’s announcement on security arrangements in Al-Muthanna, and in accordance with the prospective completion of Japan’s reconstruction mission in the province, the Japanese Prime Minister Junichiro Koizumi has announced that his country’s contingent in Al-Muthanna will be withdrawn.

The ADF will continue to provide security for the Japanese contingent until they have completed the final elements of their mission, which is likely to occur by the end of July.

Japan will remain a vital Coalition partner in Iraq. Along with continued reconstruction assistance, Prime Minister Koizumi has announced that Japan will expand its Air Self Defence Force contribution to provide air-lift support for the UN into Baghdad and Irbil.

These developments highlight both the determination of the Iraqi authorities to take control of their own destiny and the determination of Australia and other Coalition partners to help them do so.

It is important to note the progress that Iraq is making on other fronts. Since January 2005, we have seen Iraq hold three national polls and draft a constitution. More than 15.5 million votes were recorded in elections in December last year, including approximately 12,000 recorded at polling booths across Australia.

Last month, Prime Minister al-Maliki’s Cabinet was approved by the National Assembly.

Despite a difficult security environment, Iraq’s economy is growing strongly, with the IMF estimating real GDP growth this year of 10.4 per cent. International assistance is also playing a critical role in accelerating the delivery of basic services.

Electricity generation capacity has increased by 30 per cent. Roughly a third of Iraq’s school buildings have been rehabilitated in the last three years and 36,000 new teachers have been trained. Iraq is experiencing significant growth in telephone and internet subscriptions. Vaccination programmes for Iraqi children to ward off ailments such as measles, mumps, rubella and polio have expanded rapidly.

We have witnessed important progress in the judicial system. All provincial courts are operational. More than 700 judges have been trained. And Saddam Hussein is being publicly brought to justice for his crimes against the Iraqi people.

We have seen a flowering of free speech and a free press in Iraq, including 54 commercial television stations, 114 radio stations and 268 independent newspapers and magazines.

To see the Iraqi people striving to reclaim civil society in the cradle of civilisation, sometimes at great cost and against great odds, is a humbling experience for those of us privileged enough to live in a free and democratic society.

The courage of the Iraqi people serves as a constant reminder of why the international community must maintain its support for Iraq’s democratic transition and development.

Mr Speaker, clearly the security situation in Iraq continues to be dangerous, notwithstanding that it has improved sufficiently in Al-Muthanna province for responsibility to be handed over to Iraqi forces.

The death of Abu Musab al-Zarqawi earlier this month has strengthened the hand and the resolve of all who want to see a peaceful and stable Iraq emerge from the grip of violence. But Iraq remains an active battleground in the global fight against terrorism. It also faces major challenges in terms of sectarian and criminal violence.
The transfer of security responsibility that will take place in Al-Muthanna is an important step. But it is only one step.

There is still a big job to do in assisting the Iraqi authorities in meeting their security challenges. There remains a need for strong and continued support from the international community.

After careful consideration by the National Security Committee, the Government has decided that Australian forces will take on a new role to support the Iraqi Government and security forces.

Planning for this role has been done in consultation with our Coalition partners and with the Iraqi Government.

The ADF contingent will relocate from its current base at Camp Smitty near As Samawah in Al Muthanna province to the Coalition Air Base at Tallil, located some 80 kilometres to the south east in the neighbouring province of Dhi Qar.

From its base in Tallil, the ADF will contribute to coalition operations in South East Iraq under the banner of Operational Overwatch – the Coalition effort to support the handover of primary responsibility for security to Iraqi authorities. The focus of ADF operations will initially be in Al Muthanna province, and may expand to cover Dhi Qar province later in the year.

Our forces will have two responsibilities. The first will be to continue to engage with Iraqi Security Forces and local authorities, building on the relationships we have developed and the successful ADF training and mentoring programme that has been underway since April last year.

This will involve a range of activities, including regular meetings with local leaders, exercising with the Iraqi Security Forces, and supporting and mentoring them as they consolidate their capabilities.

As part of this engagement, we will also continue the ADF program of reconstruction assistance. This has so far delivered many valuable improvements to services and infrastructure for the local community in critical areas such as transport, health, veterinary and agricultural services and utilities.

The ADF contingent’s second responsibility will be to support the Iraqi authorities in crisis situations. While southern Iraq is relatively calm compared with other parts of the country, the security environment remains dangerous. Should situations develop that are beyond the capacity of the Iraqi Security Forces to resolve, the Iraqi Government may call upon the Coalition to provide them with backup.

This could involve the ADF providing support in areas such as communications, command and control, intelligence and surveillance and, in extreme cases, through direct military action.

The intelligence assessments available to the government indicate that the areas in which the ADF will be operating in its new role have among the lowest threat levels in comparison to the rest of Iraq.

That said, the ADF’s new role will be higher risk. The Government is keenly aware of the risks associated with this new mission, and will ensure that the ADF has the resources it needs to carry out its tasks as safely and effectively as possible.

ADF troops in southern Iraq are well structured and equipped. In addition, ADF elements have access to Coalition support capabilities including medical evacuation, air support and other ground support enablers such as logistics and fire support.

A Battle Group similar in size and structure to the Al-Muthanna Task Group (approximately 450 personnel) will be based at Tallil Air Base. It will comprise two Combat Teams: one cavalry combat team drawn from 2/14th Light Horse Regiment based in Brisbane, and one motorised infantry combat team, drawn from 2nd Battalion, Royal Australian Regiment, based in Townsville.

The Battle Group will be under the command of Lieutenant-Colonel Michael Mahy, Commanding Officer, 2nd Battalion Royal Australian Regiment.

The force will also include an ADF Training Team of approximately 30 personnel. Since the beginning of this month, the Training Team has been training and mentoring Iraqi instruction personnel at the Iraqi Army Basic Training Centre at Tallil Air Base. We are also making a small training contribution at the Counter Insurgency Academy in Taji, north of Baghdad.
Mr Speaker, let me be very clear. Australia will not be hostage to a particular timetable for withdrawal from Iraq. We will only leave when the job has been finished.

Iraq is an active battleground in the international fight against terrorism. To leave Iraq prematurely would not only destabilise the Middle East. It would also provide comfort and strength to extremists all around the world.

To say that we should fight against the terrorists in Afghanistan but walk away from the struggle in Iraq is simply illogical. If countries such as the United States or Great Britain or Australia were to follow such logic it would be nothing less than a disastrous defeat for the cause of freedom and the values we hold dear.

The point that Britain’s Prime Minister Tony Blair made in this House in March is as powerful today as it was then. And I quote: ‘Here are Iraqi Muslims … saying clearly that democracy is as much our right as yours. … This struggle is our struggle.’

‘If the going is tough – we tough it out. This is not a time to walk away. This is a time for the courage to see it through.’

Helping Iraq to achieve stability and democracy is in Australia’s national interest. And it is part of Australia accepting its global responsibilities.

Our support is at the request of the Iraqi Government and the Iraqi people and is dependent on progress by Iraqi authorities in managing their own affairs.

We in the Government are very mindful of the risks our men and women face in Iraq. I have never sought to hide those risks. As always, our thoughts and prayers are with all those who are serving their country bravely.

Senator BARTLETT (Queensland) (3.39 pm)—by leave—I move:

That the Senate take note of the document.

I will briefly speak to this and then seek leave to continue my remarks. I think it is valuable and a positive thing that the government has tabled a statement in regard to this issue. There has been a decline in recent times in ministers making or tabling statements about important matters, and it is pleasing to see that on this occasion there has been a statement made. I do think it is important to take the opportunity to state for the record the Democrats’ view about Australia’s commitments in Iraq and the broader situation in Iraq. It has been the Democrats view all along that, while it was no secret that we did not support the invasion of Iraq, once it occurred we had an obligation to help rebuild that country and for our troops to stay there while it was still beneficial as part of the rebuilding process, and obviously to contribute in many ways other than just military ones to help with the rebuilding process.

I think it has been clear for some time that it would, on balance, be more beneficial if Australia were to withdraw. The ongoing instability in that country over a number of years now is well documented. The widespread problems that have occurred are also well documented. Indeed, the disappearance of support among the neoconservatives in the United States for this war has also been well documented. It is disappointing that the level of media debate on all sides and the media coverage about a variety of aspects to do with the situation in Iraq is much more dynamic and much more diverse in the US and the UK than it appears to be in Australia. You get a much narrower view about both what is happening on the ground in Iraq and what the varying views are about where to go from here if you just read the mainstream media in Australia compared to reading the mainstream media in the US or the UK, including the right-wing or conservative press and media in those countries. That is a bit unfortunate.

It is a crucial time in terms of the Australian military contribution in Iraq. There is open speculation now about whether our troops may be home by Christmas. ‘Troops home by Christmas’ is a phrase that is probably going to be resonating in the political
lexicon for some time to come due to a previous Christmas that it was suggested troops might need to be home by. I believe it is time for our troops to withdraw.

The other important thing I noted today was a suggestion that one of the problems that applies is what might be called an attention deficit disorder: there is a lot of focus on something for a while, then everybody gets bored with it and focuses on something else. Frankly, one of the problems I saw with the intervention in Iraq was that we had not got anywhere near addressing and trying to finish and stabilise the situation in Afghanistan before we went off on some other grand adventure, with the flow-on consequence that not only Iraq but also Afghanistan is in a much less stable situation than it might otherwise have been. If we had kept our focus on Afghanistan then things might be better there than they currently are.

We do need to maintain attention. Even if our troops are withdrawn, it is very important that we maintain attention on that part of the world and try to contribute in a better way to help to stabilise not just the country of Iraq but also the region more broadly. That is something that I think will, sadly, take a long period of time, which is another reason the attention needs to not be in deficit. For that reason, whilst obviously there are aspects to the government’s approach towards Iraq that I strongly disagree with, I at least welcome the fact that there has been a statement presented—that there is attention drawn in a formal parliamentary sense to that situation.

We do have, of course, the reports overnight about the involvement of some Australians in the inadvertent shooting of a bodyguard. That is clearly an unfortunate situation and one that the government is responding to here. That in itself obviously raises some issues. I think that, by keeping an eye on the broader situation, there is certainly something that I am more focused on and the Democrats are more focused on, both in terms of what happens in Iraq and also that wider issue that many people, including the Democrats, have raised a number of times about where our Defence resources should be best focused. I think many people believe that they should be focused much more in our own region, not to the total exclusion of elsewhere in the world but certainly much more than they have been. I think recent events demonstrate that even more clearly than before.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.44 pm)—I note the minister’s statement but want to draw the Senate’s attention to some very different points of view, as Senator Bartlett was just indicating. If you turn to the Guardian Weekly of last week, you will find a column entitled ‘Blair’s imperialist illusion’ by Simon Jenkins. He talks about the new Iraqi Prime Minister, Nuri al-Maliki, whom Australian Prime Minister Howard refers to in the first sentence of this statement, in these terms:

This exit strategy was galvanised last month when the new Iraqi prime minister, Nuri al-Maliki, said he expected coalition troops to leave 16 of Iraq’s 18 provinces by the end of the year. The only remaining American troops would be in lawless Sunni Anbar and in Baghdad. His statement implied a total withdrawal from all Shia provinces, including the British from the south. Maliki’s statement should have been music to London’s ears. Here was an elected leader eager to appear his own man, to show the militias, clerics, warlords and ubiquitous Iranian agents that he was not a coalition puppet. His view is supported by the shrewd American ambassador in Iraq, Zalmay Khalilzad.

So why did Blair rush to Baghdad and dismiss Maliki’s request out of hand? His spokesman indicated that Iraq would not be remotely “ready” for such a British troop departure by the end of
the year. Offered a window through which to escape, Blair slammed it shut. Told to prepare to leave by the very democratic leader he had helped to install, he refused to listen.

Ditto Prime Minister Howard. The new democratically elected Prime Minister of Iraq is saying that he is planning for coalition troops to leave 16 of Iraq’s 18 provinces, including Al Muthanna, where the Australian troops have been, by the end of the year. But there is no indication in this ministerial statement that Australia is going to comply with the expectations of the Iraqi Prime Minister. As the British commentator said, given the opportunity to leave Iraq, the Prime Minister has slammed the window shut in front of him.

A recent opinion poll in Iraq was conducted for worldpublicopinion.org by the Program on International Policy Attitudes at the University of Maryland in the United States and fielded by KA Research Ltd/D3 Systems. Polling was conducted in January with a nationwide sample in Iraq of 1,150 people, which included an oversample of 150 Arab Sunnis. Asked whether the US government plans to have permanent military bases in Iraq or to remove all its military forces once Iraq is stabilised, 80 per cent overall assumed that the US plans to remain permanently, including 79 per cent of the Shiites, 92 per cent of the Sunnis and 67 per cent of the Kurds. Only small minorities believed that the US plans to ‘remove all its military forces once Iraq is stabilised’.

When the Iraqis were asked what they would like the newly elected Iraqi government to ask the US-led forces to do, 70 per cent of Iraqis favour setting a time line for the withdrawal of US forces. These are the people of Iraq. Asked if it was a good idea for Iraqi leaders to have agreed at the Arab league conference that there should be a timetable for the withdrawal of US-led forces from Iraq, 87 per cent said it was. That included 64 per cent of Kurds, 94 per cent of Sunnis and 90 per cent of the Shiites.

When the Iraqi people were asked earlier this year whether or not they approved their government endorsing a timetable for US withdrawal, 35 per cent supported it being within six months and another 35 per cent within two years. Overall the figure was 87 per cent. We know the Kurds have looked much more favourably on the occupation; nevertheless, 64 per cent of them wanted a withdrawal. For the Shiites it was 90 per cent and for the Sunnis it was 94 per cent. What is more, asked how they felt a six-month withdrawal would go, 67 per cent of Iraqis thought it would increase their overall day-to-day security, 64 per cent said it would lead to a reduction in violent attacks, 61 per cent said it would reduce interethnic violence and 56 per cent said it would reduce the presence of foreign fighters.

I wanted to put those matters on record because, as Senator Bartlett said, they are almost counterintuitive to the media we read. We have here the Prime Minister of Iraq reflecting the feeling of his people, who put him there, that it is time for the occupying forces of the coalition to leave, that it should be a phased withdrawal and that it should be soon. The Prime Minister of Iraq says he hopes troops will leave all but two of the provinces—and one of them notably is Baghdad, where there is a concentration of this awful violence—and that it should happen by Christmas; and our Prime Minister is making no such commitment.

I think Prime Minister Howard would do well to listen a lot more to Baghdad and a lot less to Washington. There is more at stake than the wishes of the Iraqi people here; there is the security and wellbeing of our own security forces. I am one parliamentarian who does not like to have security forces there not necessarily in the best interests of
our country, and we are here to the debate that matter.

I do not think it is in our best interests as a nation to have this prolonged presence in Iraq. I have called today, on behalf of the Greens, for the return home of the Australian security forces, particularly in this milieu in which the Iraqis are saying that that is going to be a good thing and will decrease violence in their country. I might add that the awesome other side of that polling is that a majority of Iraqis support the attacks on US troops. It is an extraordinary situation. Although we cannot stand looking at the violence in Iraq day by day, I think it is a great pity that, since there was coverage of how well the invasion was going, it has gone from the front page to the back page.

I did wake up one morning last month to hear the Mayor of Baghdad say that 1,100 people had been murdered in that city in the previous month. In the last couple of days, we heard shocking evidence about two American soldiers kidnapped, murdered and tortured. How can you, having heard about their kidnap, not feel a chill of utter despair and horror at the circumstances those two 20-year-olds from the United States found themselves suddenly in before they were put to death in that way—and the horror for their families, of course. Eleven hundred people in Baghdad suffered fates like that in one month, and it has been occurring at a rate of more than 1,000 a month in Baghdad throughout this year. It is a horrendous situation. The Iraqis say that, having now established a democratic form of government, they would be better off and there would be less violence if the occupying troops were withdrawn. That is what I would have liked to have seen in this statement.

I would like to have seen some acknowledgment by the Prime Minister or the Minister for Defence that we have an open ear to what the Iraqi people themselves are saying. I know that the United States is building the largest embassy anywhere on the planet in the green zone in Baghdad at the moment. One news report says it takes five minutes to drive past one side of the perimeter fence. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES
Economics Legislation Committee
Reference
Senator O’BRIEN (Tasmania) (3.55 pm)—by leave—I move:
That the following matter be referred to the Economics Legislation Committee for inquiry and report by 9 October 2006:

(a) the relationship between the landed price of crude oil, refining costs, the wholesale price and the retail price of petrol;
(b) regional differences in the retail price of petrol;
(c) variations in the retail price of petrol at particular times;
(d) the industry’s integrated structure; and
(e) any other related matters.

Question agreed to.

NOTICES
Withdrawal
Senator O’BRIEN (Tasmania) (3.56 pm)—Pursuant to notice given earlier today on behalf of the Rural and Regional Affairs and Transport Legislation Committee, I now withdraw the business of the Senate notice of motion standing in my name.

COMMITTEES
Reports: Government Responses
Senator VANSTONE (South Australia—Minister for Immigration and Multicultural Affairs) (3.56 pm)—I present two govern-
ment responses to committee reports as follows:

Community Affairs References Committee—The cancer journey: Informing choice—The delivery of services and treatment options for persons with cancer

Rural and Regional Affairs and Transport References Committee—The operation of the winemaking industry

In accordance with the usual practice, I seek leave to incorporate the documents in Hansard.

Leave granted.

The documents read as follows—

Australian Government Response to: The cancer journey: informing choice

The report of the Community Affairs References Committee, June 2005

Introduction

In Australia, one in three men and one in four women will be directly affected by cancer before the age of 75 years. Each year, around 460,000 people are diagnosed with cancer. Approximately 374,000 of these cancers are less threatening types of skin cancer—namely non-melanocytic skin cancer. For other types of cancer, over 88,000 people will be diagnosed and approximately 36,000 people will die per year.

Through Medicare, the Australian Government takes a leading role to provide universal and affordable access to primary care providers, including medical practitioners, and to a range of specialist and diagnostic services. The Pharmaceutical Benefits Scheme provides subsidised access to pharmaceuticals. The Australian Government also contributes funding to the public hospitals through the Australian Health Care Agreements.

As outlined in the 2005-06 Federal Budget, the Australian Government has moved to further reduce the burden of cancer by allocating an additional $189.4 million over the five years to 2008-09 for the Strengthening Cancer Care Initiative. This initiative ensures better coordination of our national cancer effort, more research funding for cancer care, enhanced cancer prevention and screening programs, better support and treatment for those living with cancer and those needing palliative care, and better support for the professionals who care for cancer patients.

A key element of the Strengthening Cancer Care initiative is the establishment of a national cancer agency to be called, Cancer Australia. The new agency will provide important strategic leadership by bringing together key cancer organisations. It will also be responsible for examining a number of recommendations outlined in this report. More specifically the new agency will:

- Provide national leadership in cancer control;
- Guide improvements to cancer prevention and care, to ensure treatment is scientifically based;
- Coordinate and liaise between the wide range of groups and providers with an interest in cancer;
- Make recommendations to the Australian Government about cancer policy and priorities; and
- Oversee a dedicated budget for research into cancer.

Cancer organisations have shown strong support for an organisation which will increase collaboration and reduce duplication.

Recommendation 1

The Committee recommends that Cancer Australia, in association with consumer based organisations such as Cancer Voices NSW and the Breast Cancer Action Group in Victoria, coordinate the development of information about cancer treatment services in each State and Territory. This information would be based on the successful breast cancer treatment directory developed by the Breast Cancer Action Group in NSW, published in 2002, which is also available on the Internet.

Australian Government Response

Cancer Australia will be asked to consider the appropriate coordination of directories of cancer services in all States and Territories.

The provision of information about cancer treatment services is, however, a State and Territory Government responsibility.
Recommendation 2
The Committee recommends that Cancer Australia, in conjunction with State and Territory Governments, develop appropriate referral pathways for the optimal management of all cancers for all Australians regardless of where they live.

Australian Government Response
The Australian Government will ask Cancer Australia to examine appropriate cancer referral pathways, with particular consideration being given to difficulties confronted by adolescents with cancer.

The development of optimal cancer referral pathways is a matter for the cancer profession.

Recommendation 3
The Committee recommends that Cancer Australia, together with the Clinical Oncological Society of Australia and the Cancer Council of Australia develop and introduce accreditation and credentialing systems.

Australian Government Response
The accreditation and credentialing of cancer services is primarily a matter for the oncology professions.

Recommendation 4
The Committee recommends that Cancer Australia in its role of providing national leadership and to foster improvements in the integration of networked cancer services, play a primary role in facilitating the sharing of information about Commonwealth and State and Territory Government cancer initiatives to improve treatment services.

Australian Government Response
The Australian Government will consult with Cancer Australia in relation to the best mechanism for improving the sharing of information from all jurisdictions on cancer initiatives to improve treatment services.

However, the integration of networked cancer services is a matter for State and Territory Governments.

Recommendation 5
The Committee recommends that the use of and adherence to clinical guidelines is an essential component of multidisciplinary care and must be part of any system of cancer treatment services.

Australian Government Response
The Australian Cancer Network has responsibility for the production and dissemination of guidelines in cancer control. However, adherence to clinical guidelines is largely a matter for the oncology profession.

Recommendation 6
The Committee recommends that multidisciplinary care, consisting of an integrated team approach in which medical and allied health care professionals develop collaboratively an individual patient treatment plan, continue to be widely promoted within the medical and allied health care professions.

Australian Government Response
The introduction of a new Medicare item to reimburse participation by medical practitioners in multidisciplinary cancer case conferences from 1 November 2006, is expected to support the development of collaborative patient treatment planning.

Recommendation 7
The Committee recommends that the curriculum for medical professionals at the undergraduate and postgraduate levels include enhanced communication skills training and that professional Colleges also undertake a more active role in the provision of such training for their members. This training could be based on the National Breast Cancer Centre’s communication skills training workshops that have been developed to improve the awareness and capacity of health professionals to communicate effectively with women with cancer.

Australian Government Response
This matter falls outside the jurisdiction of the Australian Government.

Recommendation 8
The Committee recommends that the Cancer Funding Reform Project, established under the auspices of the Health Reform Agenda Working Group and reporting to Australian Health Ministers, include the differences in public and private hospital billing arrangements as an item for investigation and resolution.
Australian Government Response

This issue will be considered in the Cancer Funding Reform Group (the Group), of which the Department of Health and Ageing is a member. The Group has commissioned the Centre for Health Service Development, University of Wollongong, to investigate the current roles and responsibilities of both public and private health providers across the continuum of cancer care services. The study, managed by ACT Health, will consider the impact of current funding arrangements on the effectiveness of cancer treatment, efficiency of resource allocation and access to best practice. This will involve consultations with the private sector, given that private health insurance arrangements function differently to the Australian Health Care Agreements.

Based on the results of this study, the Group will make recommendations about specific alternative funding arrangements and implementation options to improve access to coordinated best practice treatment for cancer.

Recommendation 9

The Committee recommends that Department of Health and Ageing, in consultation with Cancer Australia, enhance the current Medicare Benefits Schedule (MBS) arrangements for relevant specialists and general practitioners to support participation in multidisciplinary care meetings in both hospitals and the community.

Australian Government Response

The Medicare Benefits Schedule has a number of items that support multidisciplinary care. These include chronic disease management care planning items for general practitioners and case conferencing items that are available to physicians, psychiatrists and general practitioners. These items provide for both the organisation of and participation in case conferences by medical practitioners involved in the care of patients with chronic diseases, including cancer. They support participation by these practitioners in multidisciplinary care meetings in both hospitals and the community.

A new Medicare item specifically for multidisciplinary cancer case conferencing will be introduced from 1 November 2006. This will cover participation by treating doctors, including specialists and general practitioners, in a case conference of a multidisciplinary team, for the purpose of cancer care planning on their hospital or community patient.

The recommendations of the National Demonstration Project of Multidisciplinary Care for Breast Cancer indicated that the cooperation of hospitals or health service is crucial for the success of regular multidisciplinary team meetings. While the MBS is able to fund the attendance of medical practitioners at case conferences, it is beyond the scope of the MBS to provide the infrastructure or to ensure the active cooperation of hospitals and health services.

Recommendation 10

The Committee recommends that five multidisciplinary cancer centre demonstration projects be set up in consultation with consumer groups and be funded over three years in different parts of Australia. At least one demonstration project should be in the private sector. Within these multidisciplinary centres different models of psychological support, incorporating a range of complementary therapies and taking into account the cultural needs of patients, should be assessed. The assessment of all aspects of the demonstration projects should be scientifically based and involve consumer representatives in the process.

Australian Government Response

The Australian Government will consult with Cancer Australia about the potential to undertake multidisciplinary cancer centre demonstration projects.

Recommendation 11

The Committee recommends that all State and Territory Governments that have not yet done so, establish designated care coordinator positions to help cancer patients navigate their way through treatment and provide support and access to appropriate information.

Australian Government Response

This matter falls outside the jurisdiction of the Australian Government.

Recommendation 12

The Committee recommends that use of the breast cancer nurse care coordinator model should be adopted for all cancers and that State and Ter-
ritories undertake a recruitment drive for skilled health professionals such as retired nurses to help fill these positions.

**Australian Government Response**

This matter falls outside the jurisdiction of the Australian Government.

**Recommendation 13**

The Committee recommends that Cancer Australia provide access to authoritative, nationally consistent, evidence based information on services, treatment options, government and non-government assistance and links to appropriate support groups which can be used by health professionals including care coordinators, cancer patients and their families. This information should be available in different forms.

**Australian Government Response**

The Government will consult with Cancer Australia about the agency’s capacity to provide access to authoritative, nationally consistent, evidence based information in a variety of formats.

**Recommendation 14**

The Committee recommends that the Department of Health and Ageing improve health professional and consumer awareness of allied health services for people with chronic conditions and complex care needs that can be claimed under the Medical Benefits Schedule. Current claim usage of allied health services should be determined and an evaluation should be conducted 12 months after promotion of the Medical Benefit Schedule items available.

**Australian Government Response**

The Medicare allied health and dental care initiative consultative group was established by the Department of Health and Ageing in November 2004 to provide advice and assistance to the Department on:

- the development, review and dissemination of information and educational resources for General Practitioners, allied health professionals, dentists and consumers about the new allied health and dental care items and Enhanced Primary Care multidisciplinary care planning;
- continuing professional development requirements for eligible allied health professionals and dentists;
- Indigenous allied health and oral health issues through the National Aboriginal Community Controlled Health Organisation process; and
- monitoring and review of the items and implementation, and development of solutions where problems are identified.

The four key General Practitioners groups (the Australian Divisions of General Practice, the Australian Medical Association, the Royal Australian College of General Practitioners and the Rural Doctors Association of Australia) are represented on the consultative group, as well as national associations representing all eligible allied health professionals, the Australian Dental Association, National Aboriginal Community Controlled Health Organisation and Medicare Australia.

The Department of Health and Ageing is working closely with the consultative group to increase awareness of the allied health and dental care Medical Benefit Scheme items, particularly among General Practitioners and consumers. It also monitors uptake of the items on a continual basis.

**Recommendation 15**

The Committee recommends that Cancer Australia examine appropriate funding mechanisms for programs and activities like those operated by the Gawler Foundation, which specialise in providing learning and self-help techniques based on an integrated approach for cancer patients and their carers. This examination should include consideration from a health and equity point of view of providing Medicare deductibility for cancer patients accessing these services.

**Australian Government Response**

The remit of Cancer Australia does not currently include advice on funding mechanisms in relation to cancer programs and activities. Funding for cancer programs and activities is a State and Territory Government responsibility. At a Federal level, Medicare provides rebates primarily for the provision of clinically relevant services by medical practitioners.
Recommendation 16
The Committee recommends the continued implementation and dissemination of the Clinical practice guidelines for the psychosocial care of adults with cancer to health professionals and people and families affected by cancer.

Australian Government Response
The Australian Government has funded the National Cancer Control Initiative and the National Breast Cancer Centre to produce the Clinical Practice Guidelines for the Psychosocial Care of Adults with Cancer.

The guidelines provide clinically useful information about the emotional impact of cancer, strategies to reduce this impact and treatment of problems when they occur. These guidelines are a world first, and build upon the Psychosocial Clinical Practice Guidelines for Breast Cancer, developed by the National Breast Cancer Centre.

In 2003, The National Cancer Control Initiative, in conjunction with the National Breast Cancer Centre, developed a dissemination and implementation strategy for these guidelines. The strategy consists of four modules including interactive educational workshops for health professionals (module 1), health professional summary cards (module 2), consumer summary cards (module 3) and a rural and remote strategy (module 4).

Work on the implementation and dissemination of modules one and two of the four-module strategy was completed during the second half of 2004. The Australian Government will refer modules three and four to Cancer Australia for consideration regarding their further dissemination and implementation.

Recommendation 17
The Committee recommends that psychosocial care be given equal priority with other aspects of care and be fully integrated with both diagnosis and treatment, including the referral of the patient to appropriate support services.

Australian Government Response
This matter falls outside the jurisdiction of the Australian Government.

Recommendation 18
The Committee recommends that patients and carers should be made aware of additional support services provided by organisations such as The Gawler Foundation in VIC, Balya Cancer Self Help and Wellness Inc in WA and Bloomhill Cancer Help in QLD.

Australian Government Response
This matter falls outside the jurisdiction of the Australian Government.

Recommendation 19
The Committee recommends that State and Territory Governments consider ways to increase the availability of psychosocial support services.

Australian Government Response
This matter falls outside the jurisdiction of the Australian Government.

Recommendation 20
The Committee recommends States and Territories adopt and implement the consistent approach to the benefits for travel and accommodation recommended by the Radiation Oncology Jurisdictional Implementation Group to ensure that benefits are standardised across Australia. These benefits should be indexed or reviewed annually for increases in travel and accommodation costs.

Australian Government Response
This matter falls outside the jurisdiction of the Australian Government.

Recommendation 21
The Committee recommends Cancer Australia, in consultation with Aboriginal and Torres Strait Islander people and the States and Territories, auspice work to improve access to cancer screening, diagnosis and treatment for Aboriginal and Torres Strait Islander people that is culturally appropriate.

Australian Government Response
The Department of Health and Ageing has already established an Aboriginal and Torres Strait Islander Women's Forum to provide advice to the Australian Screening Advisory Committee on women's cancer screening, particularly in relation to improving the participation of Aboriginal and Torres Strait Islander women in screening and follow-up assessment. The needs of Aboriginal and Torres Strait Islander men in relation to screening are also on the agenda for consideration by the Australian Screening Advisory Committee.
In relation to diagnosis and treatment services, the Department will seek advice from Cancer Australia regarding its capacity to address this aspect in conjunction with key stakeholders.

**Recommendation 22**
The Committee recommends the National Health and Medical Research Council provide a dedicated funding stream for research into complementary therapies and medicines, to be allocated on a competitive basis.

**Australian Government Response**
The National Health and Medical Research Council has provided a separate response to this recommendation.

**Recommendation 23**
The Committee agrees that the recommendation of the Expert Committee on complementary medicines in the health system, that the NHMRC convene an expert working group to identify the research needs addressing the use of complementary medicines, including issues around safety, efficacy and capacity building. The Committee recommends that this working group should include complementary therapists in order to develop a strategy to coordinate and prioritise a dedicated research funding stream for complementary medicine and therapy research, taking into account research conducted overseas. The group should also encourage the development of collaborative partnerships across disciplines.

**Australian Government Response**
The National Health and Medical Research Council has provided a separate response to this recommendation.

**Recommendation 24**
The Committee recommends that the NHMRC develop workshops for complementary therapy researchers intending to compete for funding, where experienced researchers discuss their preparation of research proposals.

**Australian Government Response**
The National Health and Medical Research Council has provided a separate response to this recommendation.

**Recommendation 25**
The Committee recommends that the NHMRC appoint two representatives, (including one consumer), with a background in complementary therapy, to be involved in the assessment of research applications received by the NHMRC for research into complementary and alternative treatments.

**Australian Government Response**
The National Health and Medical Research Council has provided a separate response to this recommendation.

**Recommendation 26**
The Committee recommends that complementary therapy organisations form a collaborative group with the authority to negotiate with representatives from the established medical organisations and to make recommendations to government. This body should organise a regular forum for representatives of complementary therapies to come together and discuss issues affecting their members such as regulation, research funding issues, collaboration and health and cancer initiatives at the Commonwealth, State and Territory levels.

**Australian Government Response**
This matter falls outside the jurisdiction of the Australian Government.

**Recommendation 27**
The Committee recommends that Cancer Australia access the information available internationally on different complementary therapies and alternative products in order to provide up-to-date, authoritative, evidence-based information which can be regularly updated. This information should be made available in different forms and made available to cancer patients and their families as well as health professionals and other interested individuals.

**Australian Government Response**
The Australian Government will consult with Cancer Australia in relation to its capacity to develop approaches to provide access to authoritative, nationally consistent, evidence based information on different complementary therapies and alternative products in relation to cancer.
Recommendation 28
The Committee recommends that where quality of life may be improved by complementary approaches, methods to make such therapies more accessible be discussed by State and Territory cancer services, including consumer representatives.

Australian Government Response
This matter falls outside the jurisdiction of the Australian Government.

Recommendation 29
The Committee recommends that State and Territory governments include the views of peak complementary therapy bodies in each State and Territory regarding the planning and delivery of cancer services.

Australian Government Response
This matter falls outside the jurisdiction of the Australian Government.

Recommendation 30
The Committee recommends that the target age groups for BreastScreen Australia and the National Cervical Screening Program should be reviewed regularly, given the increasing trends in life expectancy for Australian women. In addition, a review should be conducted of how women outside the age limits are made aware of their cancer risk.

Australian Government Response
BreastScreen Australia is targeted specifically at women without symptoms aged 50 to 69, although women aged 40-49 and 70 years and older are able to attend for screening. The Australian Screening Advisory Committee has identified the review of screening for women aged 40 to 49 years and over 70 years for BreastScreen Australia as a priority project. The Australian Health Ministers’ Advisory Council has agreed to a comprehensive evaluation of the BreastScreen Australia Program. This evaluation will include a review of the screening target age.

The National Cervical Screening Program policy states that routine screening with Pap smears should be carried out every two years for women between the ages of 18 (or two years after first sexual intercourse) and 69 years. The review of both age and interval for the National Cervical Screening Program has been identified as a long term priority by the Australian Screening Advisory Committee. In approving the National Cervical Screening Program Guidelines for the Management of Asymptomatic Women With Screen Detected Abnormalities (the Guidelines) in June 2006, the National Health and Medical Research Council recommended that the screening interval for Pap smears in Australia be reviewed.

It is anticipated that a full review of the policy of the National Cervical Screening Program will be undertaken when the Guidelines are due for review in three to five years’ time. This review would include the screening age, screening interval and guidelines for management of women with screen detected abnormalities as well as the impact of the human papillomavirus vaccine.

Recommendations 31
The Committee recommends that Cancer Australia consider the development of appropriate referral pathways that take account of the particular difficulties confronted by adolescents with cancer.

Australian Government Response
See the Australian Government response to recommendation 2.

Recommendation 32
The Committee recommends that State and Territory Governments recognise the difficulties experienced by adolescent cancer patients being placed with inappropriate age groups and examine the feasibility of establishing specialised adolescent cancer care units in public hospitals.

Australian Government Response
This matter falls outside the jurisdiction of the Australian Government.

Recommendation 33
The Committee recommends that Cancer Australia, in consultation with State and Territory Governments and the Australian Institute of Health and Welfare, take a leadership role in coordinating the development of a national approach to the collection of cancer staging data.
Australian Government Response
The Australian Government will refer this matter to Cancer Australia for consideration in the context of its leadership role in cancer control.

The collection of cancer data is, however, largely a matter for the Australasian Association of Cancer Registries in each State and Territory.

———

Australian Government Response to the report on The operation of the wine-making industry by the Rural and Regional Affairs and Transport References Committee

Introduction
The Australian wine industry is an outstandingly successful industry. In 2004-05 Australia sold 1.1 billion litres of wine worth about $4.5 billion, including record exports of 670 million litres valued at $2.7 billion. This placed wine as Australia’s third largest food export after meat and grains. However, the wine industry is facing tougher times at the moment with returns to winemakers and wine grape growers lower than in the recent past.

In this context the Government welcomes the Committee’s report on the operation of the Australian wine industry and its interest in practical measures to improve the industry's viability.

Recommendation 1
The committee recommends that the Department of Agriculture, Fisheries and Forestry should consult with state authorities and peak bodies with a view to establishing a national register of vines.

Response
Government notes there is a case for investigating methods for improving the accuracy of information on the actual planting rate and total area under non bearing and bearing vines. However, the Government does not support the recommended approach.

Data on vineyard area is currently collected by the Australian Bureau of Statistics (ABS) through the Vineyard Survey. This data collection is funded by the Grape and Wine Research and Development Corporation (GWRDC). Since 1998-99, the Vineyard Survey has been found to be around 95% accurate. However, it is recognised that currently there is little opportunity to detect new entrants to the industry until they have started to produce wine grapes. During periods of growth, when there is an influx of new growers, this can be an impediment to the accuracy of the data collected.

The Government considers that a national register based on compulsory reporting by growers would not be a cost-effective mechanism for improving the accuracy of the Vineyard Survey.

The Government agrees to refer the issue of considering cost-effective and efficient improvements to the Vineyard Survey to the GWRDC for its consideration.

Recommendation 2
The committee recommends that the Government should give priority to amending the Trade Practices Act 1974 to add ‘unilateral variation’ clauses in contracts to the list of matters which a court may have regard to in deciding whether conduct is unconscionable.

Response
The Government notes that the Senate Economics References Committee, in its report The effectiveness of the Trade Practices Act 1974 in protecting small business, recommended that section 51AC of the Trade Practices Act 1974 be amended to provide that unilateral variation clauses should be added to the list of matters which a court may have regard to in deciding whether conduct is unconscionable. The Government has accepted the Senate Economic References Committee’s recommendation in full and is progressing legislation for its implementation.

Recommendation 3
The committee recommends that the Government, in consultation with representative organisations for wine grape growers and winemakers, should make a mandatory code of conduct under the Trade Practices Act to regulate sale of wine grapes.

Response
The Government does not support the committee’s recommendation.

The Government notes that the Wine Industry Relations Committee, a joint committee of the Winemakers’ Federation of Australia and Wine Grape Growers of Australia, has resolved to de-
The Government considers that a voluntary code is the preferred approach and is supportive of these efforts on the part of wine grape growers and winemakers.

**Recommendation 4**

The committee recommends that any national wine industry body should be separate from a winemakers' representative body.

**Response**

The Government notes the committee's recommendation.

The Government funded the development of a business plan for the new grape growers' peak body after the previous peak wine grape growing organisation, the Wine Grower's Council of Australia, was wound up in 2003-04. Following consultation with wine grape growers and winemakers, the consultants developing the business plan recommended a combined peak industry body be formed as it would be more efficient and effective than two separate bodies.

The Government considers the make-up of a peak wine industry body is a matter for industry to decide.

**PETROLEUM RESOURCE RENT TAX ASSESSMENT AMENDMENT BILL 2006**

**PETROLEUM RESOURCE RENT TAX (INSTALLMENT TRANSFER INTEREST CHARGE IMPOSITION) BILL 2006**

**Report of Economics Legislation Committee**

The DEPUTY PRESIDENT—Pursuant to standing order 38, I present a report of the Economics Legislation Committee on the Petroleum Resource Rent Tax Assessment Amendment Bill 2006 and a related bill, together with the Hansard record of proceedings and documents presented to the committee, which were presented to the Deputy President when the Senate adjourned yesterday. In accordance with the terms of the standing order, the publication of the report was authorised.

Ordered that the report be printed.

**TAX LAWS AMENDMENT (2006 MEASURES No. 3) BILL 2006**

**Report of Economics Legislation Committee**

The DEPUTY PRESIDENT—Pursuant to standing order 38, I present a report of the Economics Legislation Committee on the Tax Laws Amendment (2006 Measures No. 3) Bill 2006, together with the Hansard record of proceedings and documents presented to the committee, which were presented to the Deputy President when the Senate adjourned yesterday. In accordance with the terms of the standing order, the publication of the report was authorised.

Ordered that the report be printed.

**COMMITTEES**

**Reports: Government Responses**

The DEPUTY PRESIDENT—In accordance with the usual practice, I table a report of parliamentary committee reports to which the government has not responded within the prescribed period. The report has been circulated to honourable senators. With the concurrence of the Senate, the report will be incorporated in Hansard.

The document read as follows—

**PRESIDENT’S REPORT TO THE SENATE ON GOVERNMENT RESPONSES OUTSTANDING TO PARLIAMENTARY COMMITTEE REPORTS**

AS AT 22 JUNE 2006

**PREFACE**

This document continues the practice of presenting to the Senate twice each year a list of government responses to Senate and joint committee reports as well as responses which remain outstanding.

The practice of presenting this list to the Senate is in accordance with the resolution of the Senate of 14 March 1973 and the undertaking by successive governments to respond to parliamentary commit-
tee reports in timely fashion. On 26 May 1978 the then Minister for Administrative Services (Senator Withers) informed the Senate that within six months of the tabling of a committee report, the responsible minister would make a statement in the Parliament outlining the action the government proposed to take in relation to the report. The period for responses was reduced from six months to three months in 1983 by the then incoming government. The then Leader of the Government in the Senate announced this change on 24 August 1983. The method of response continued to be by way of statement. Subsequently, on 16 October 1991 [tabled 5 Nov 1991] the then government advised that responses to committee reports would be made by letter to a committee chair, with the letter being tabled in the Senate at the earliest opportunity. The current government in June 1996 affirmed its commitment to respond to relevant parliamentary committee reports within three months of their presentation.

This list does not usually include reports of the Parliamentary Standing Committee on Public Works or the following Senate Standing Committees: Appropriations and Staffing, Selection of Bills, Privileges, Procedure, Publications, Regulations and Ordinances, Senators’ Interests and Scrutiny of Bills. However, such reports will be included if they require a response. Government responses to reports of the Public Works Committee are normally reflected in motions in the House of Representatives for the approval of works after the relevant report has been presented and considered.

Reports of the Joint Committee of Public Accounts and Audit (JCPAA) primarily make administrative recommendations but may make policy recommendations. A government response is required in respect of such policy recommendations. However, responses to administrative recommendations are made in the form of an executive minute provided to, and subsequently tabled by, the committee. Agencies responding to administrative recommendations are required to provide an executive minute within 6 months of the tabling of a report. The committee monitors the provision of such responses.

An entry on this list for a report of the JCPAA containing only administrative recommendations is annotated to indicate that the response is to be provided in the form of an executive minute. Consequently, any other government response is not required. However, any reports containing policy recommendations are included in this report as requiring a government response.

Legislation and other committees report on bills and the provisions of bills. Only those reports in this category that make recommendations which cannot readily be addressed during the consideration of the bill, and therefore require a response, are listed. The list also does not include reports by legislation committees on estimates or scrutiny of annual reports, unless recommendations are made that require a response.

A guide to the legend used in the ‘Date response presented/made to the Senate’ column
* See document tabled in the Senate on 22 June 2006, entitled Government Responses to Parliamentary Committee Reports–Response to the schedule tabled by the President of the Senate on 8 December 2005, for Government interim/final response.

** Report contains administrative recommendations only – response is to be provided direct to the committee in the form of an executive minute.

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<td>Regulating the Ranger, Jabiluka, Beverley and Honeymoon uranium mines</td>
<td>14.10.03</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>The Australian telecommunications network competition in broadband services</td>
<td>5.8.04</td>
<td>*(final)</td>
<td>No</td>
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<td>Turning back the tide – the invasive species challenge: Report on the regulation, control and management of invasive species and the Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002</td>
<td>10.8.04</td>
<td>*(final)</td>
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<td>8.12.04</td>
<td>*(interim)</td>
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<td>Lurching forward, looking back: Budgetary and environmental implications of the Government's Energy White Paper</td>
<td>14.6.05 (presented 16.5.05)</td>
<td>*(interim)</td>
<td>No</td>
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<td>The performance of the Australian telecommunications regulatory regime</td>
<td>10.8.05</td>
<td>*(interim)</td>
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<tr>
<td>Living with a salinity – a report on progress: The extent and economic impact of salinity in Australia</td>
<td>28.3.06</td>
<td>-</td>
<td>Time not expired</td>
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<td>Finance and Public Administration References</td>
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<td>Staff employed under <em>Members of Parliament (Staff) Act 1984</em></td>
<td>16.10.03</td>
<td>*(interim)</td>
<td>No</td>
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<td>Regional partnerships and sustainable regions programs</td>
<td>6.10.05</td>
<td>*(interim)</td>
<td>No</td>
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<td>Matters relating to the Gallipoli Peninsula</td>
<td>13.10.05</td>
<td>*(interim)</td>
<td>No</td>
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<td>Government advertising and accountability</td>
<td>6.12.05</td>
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<td>Foreign Affairs, Defence and Trade (Joint Standing)</td>
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<td>Australia’s maritime strategy</td>
<td>21.6.04</td>
<td>15.6.06</td>
<td>No</td>
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<td>Australia’s engagement with the World Trade Organization</td>
<td>3.8.04 (presented 2.7.04)</td>
<td>2.3.06</td>
<td>No</td>
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<td>Australia’s human rights dialogue process</td>
<td>12.9.05</td>
<td>2.3.06</td>
<td>No</td>
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<td>Reform of the United Nations Commission on Human Rights</td>
<td>12.9.05</td>
<td>*(final)</td>
<td>No</td>
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<td>Review of the Defence annual report 2003-04</td>
<td>11.10.05</td>
<td>27.3.06</td>
<td>No</td>
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<td>Australia’s free trade agreements with Singapore, Thailand and the United States: progress to date and lessons for the future</td>
<td>7.11.05</td>
<td>*(interim)</td>
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<td>Australia’s defence relations with the United States</td>
<td>13.6.06</td>
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<td>Visit to Australian Defence Forces deployed to support the rehabilitation of Iraq – Report of the delegation 22 to 28 October 2005</td>
<td>13.6.06</td>
<td>Not required</td>
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<td>Expanding Australia’s trade and investment</td>
<td>13.6.06</td>
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<td>Time not expired</td>
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<td>Australia's relationship with the Republic of Korea; and developments on the Korean peninsula</td>
<td>22.6.06</td>
<td>-</td>
<td>Time not expired</td>
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<tr>
<td>Australia's response to the Indian Ocean tsunami</td>
<td>22.6.06</td>
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<td>Time not expired</td>
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<td>Mr Chen Yonglin's request for political asylum</td>
<td>12.9.05</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Opportunities and challenges: Australia’s relationship with China</td>
<td>10.11.05</td>
<td>*(interim)</td>
<td>No</td>
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<td>The removal, search for and discovery of Ms Vivian Solon—Final report</td>
<td>8.12.05</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>China’s emergence: implications for Australia</td>
<td>30.3.06</td>
<td>*(interim)</td>
<td>Time not expired</td>
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<tr>
<td>Free Trade Agreement between Australia and the United States of America (Select) Final report</td>
<td>5.8.04</td>
<td>9.5.06 (presented 2.5.06)</td>
<td>No</td>
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<td>Information Technologies (Select)</td>
<td>13.4.00</td>
<td>*(interim)</td>
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<td>Review of the listing of the Kurdistan Workers’ Party (PKK)</td>
<td>9.5.06 (presented 26.4.06)</td>
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<td>Legal and Constitutional Legislation</td>
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<td>Provisions of the Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Bill 2005</td>
<td>16.8.05 (presented 15.8.05)</td>
<td>*(final)</td>
<td>No</td>
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<td>Provisions of the Anti-Terrorism Bill (No. 2) 2005</td>
<td>28.11.05</td>
<td>*(final)</td>
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<td>Provisions of the Australian Citizenship Bill 2005 and the Australian Citizenship (Transitional and Consequential) Bill 2005</td>
<td>27.2.06</td>
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<td>Provisions of the Family Law Amendment (Shared Parental Responsibility) Bill 2005</td>
<td>27.3.06 (presented 24.3.06)</td>
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<td>Provisions of the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006</td>
<td>13.6.06</td>
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<td>Reconciliation: Off track</td>
<td>9.10.03</td>
<td>*(interim)</td>
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<td>Legal aid and access to justice</td>
<td>15.6.04</td>
<td>7.2.06 (presented 3.2.06)</td>
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<td>The road to a republic</td>
<td>16.11.04 (presented 31.8.04)</td>
<td>*(interim)</td>
<td>No</td>
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<td>They still call Australia home: Inquiry into Australian expatriates</td>
<td>8.3.05 *(interim)</td>
<td>No</td>
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<td>The real Big Brother—Inquiry into the Privacy Act 1988</td>
<td>23.6.05 *(interim)</td>
<td>No</td>
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<td>Administration and operation of the Migration Act 1958</td>
<td>2.3.06 -</td>
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<td>Medicare (Select)</td>
<td>30.10.03 *(interim)</td>
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<td>Mental Health (Select)</td>
<td>30.3.06 -</td>
<td>Time not expired</td>
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<td>A national approach to mental health – from crisis to community – First report</td>
<td>9.5.06 (presented 28.4.06)</td>
<td>Time not expired</td>
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<td>A national approach to mental health – from crisis to community – Final report</td>
<td>6.12.05 *(interim)</td>
<td>No</td>
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<td>Migration (Joint Standing)</td>
<td>31.3.04 *(interim)</td>
<td>No</td>
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<td>Ministerial Discretion in Migration Matters (Select)</td>
<td>23.6.05 *(interim)</td>
<td>No</td>
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<td>National Capital and External Territories (Joint Statutory)</td>
<td>26.8.02 *(interim)</td>
<td>No</td>
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<td>Norfolk Island electoral matters</td>
<td>1.12.05 *(interim)</td>
<td>No</td>
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<td>Antarctica: Australia’s pristine frontier—Report on the adequacy of funding for Australia’s Antarctic Program</td>
<td>13.6.06 -</td>
<td>Time not expired</td>
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<td>Norfolk Island financial sustainability: The challenge – sink or swim?</td>
<td>27.3.06 (presented 21.3.06)</td>
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<td>Current and future governance arrangements for the Indian Ocean territories</td>
<td>27.3.06 (presented 21.3.06)</td>
<td>Time not expired</td>
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<td>Native Title and the Aboriginal and Torres Strait Islander Land Account (Joint Statutory)</td>
<td>27.3.06 (presented 21.3.06)</td>
<td>Time not expired</td>
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<td>Examination of annual reports 2004-2005</td>
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<td>Report on the operation of Native Title Representative Bodies</td>
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<td>Public Accounts and Audit (Joint Statutory)</td>
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<td>Corporate governance and accountability arrangements for Commonwealth government business enterprises, December 1999 (Report No. 372)</td>
<td>16.2.00</td>
<td>*(interim)</td>
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<td>Access of Indigenous Australians to law and justice services (Report No. 403)</td>
<td>22.6.05</td>
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<td>Review of Auditor-General’s reports 2003-04 third and fourth quarters; and first and second quarters of 2004-05 (Report No. 404)</td>
<td>7.11.05</td>
<td>*(interim)</td>
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<td>Developments in aviation security since the Committee’s June 2004 Report 400: Review of aviation security in Australia – An interim report (Report No. 406)</td>
<td>8.12.05</td>
<td>*(interim)</td>
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<td>Report on the ANAO budget estimates for 2006-07</td>
<td>10.5.06</td>
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<td>Publications (Joint) Distribution of the Parliamentary Paper Series</td>
<td>13.6.06</td>
<td>-</td>
<td>Time not expired</td>
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<td>Rural and Regional Affairs and Transport Legislation</td>
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<td>An appropriate level of protection? The importation of salmon products: A case study of the administration of Australian quarantine and the impact of international trade arrangements</td>
<td>7.6.00</td>
<td>*(interim)</td>
<td>No</td>
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<td>Biosecurity Australia’s import risk analysis for pig meat</td>
<td>13.5.04</td>
<td>*(interim)</td>
<td>No</td>
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<td>Administration of Biosecurity Australia – Revised draft import risk analysis for bananas from the Philippines</td>
<td>17.3.05</td>
<td>*(interim)</td>
<td>No</td>
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<td>Administration of Biosecurity Australia – Revised draft import risk analysis for apples from New Zealand</td>
<td>17.3.05</td>
<td>*(interim)</td>
<td>No</td>
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<td>Regulatory framework under the Maritime Transport Security Amendment Act 2005</td>
<td>10.8.05</td>
<td>*(interim)</td>
<td>No</td>
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<td>The administration by the Department of Agriculture, Fisheries and Forestry of the citrus canker outbreak</td>
<td>20.6.06</td>
<td>-</td>
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<td>Rural and Regional Affairs and Transport References</td>
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<td>Rural water use</td>
<td>12.8.04</td>
<td>*(interim)</td>
<td>No</td>
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<td>Australian forest plantations: A review of Plantations for Australia: The 2020 Vision</td>
<td>16.11.04</td>
<td>*(interim)</td>
<td>No</td>
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<td>Iraqi wheat debt – repayments for wheat</td>
<td>16.6.05</td>
<td>*(interim)</td>
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</table>
Committee and title of report | Date report tabled | Date response presented/made to the Senate | Response made within specified period (3 months)
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growers
The operation of the wine-making industry Scrutiny of Bills Third report of 2004: The quality of explanatory memoranda accompanying bills Superannuation and Financial Services (Select) Report on early access to superannuation benefits | 13.10.05 | 22.6.06 | No |
| 24.3.04 | *(interim) | No |
| 12.2.02 (presented 31.1.02) | 19.6.06 (presented 16.6.06) | No |

Treaties (Joint Standing)
Treaties tabled on 7 December 2004 (3) and 8 February 2005 (65th report)
Treaties tabled on 7 December 2004 (4), 15 March and 11 May 2005 (66th report)
Treaties tabled on 21 June 2005 (67th report)
Treaties tabled on 7 December 2004 (5) and 9 August 2005 (68th Report)
Treaty tabled on 29 November 2005 (71st report)
Treaties tabled on 29 November 2005 (2) (72nd report)
Treaties tabled in February 2006 (73rd report)
Treaty tabled on 28 March 2006 (74th report) | 20.6.05 | *(interim) | No |
| 18.8.05 | *(interim) | No |
| 12.9.05 | *(final) | No |
| 7.11.05 | *(final) | No |
| 27.2.06 | Not required | - |
| 28.3.06 | Not required | - |
| 10.5.06 | Not required | - |
| 13.6.06 | Not required | - |

Reports: Government Responses

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural Affairs) (3.58 pm)—I present the government’s response to the President’s report of 8 December 2005 on outstanding government responses to parliamentary committee reports, and seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

A CERTAIN MARITIME INCIDENT (Select)

A Certain maritime incident

A response may be considered in due course.

ADMINISTRATION OF INDIGENOUS AFFAIRS (Senate Select)

After ATSIC – Life in the mainstream

A response is being considered by the government and will be tabled shortly.

ASIO, ASIS AND DSD (Joint, Statutory)

Private review of agency security arrangements

A response is being considered by the government and is expected to be tabled shortly.

Review of the listing of six terrorist organisations

A response is being considered by the government and is expected to be tabled shortly.
Review of the listing of four terrorist organisations
A response is being considered by the government and is expected to be tabled shortly.

ASIO’s questioning and detention powers – Review of the operations, effectiveness and implications of Division 3 of Part III in the Australian Security Intelligence Organisation Act 1979
The response was tabled on 30 March 2006.

AUSTRALIAN CRIME COMMISSION
Cybercrime
The response was tabled on 9 February 2006.

Inquiry into the trafficking of women for sexual servitude
The response is being considered by the government. It is expected the response will be tabled shortly.

Examination of the annual report for 2003-04 of the Australian Crime Commission
The response is being considered by the government.

Supplementary report to the inquiry into the trafficking of women for sexual servitude
The response to the original report is to be finalised prior to issuing a response to this supplementary report.

Review of the Australian Crime Commission Act 2002
The response is being considered by the government and is expected to be tabled in the future.

COMMUNITY AFFAIRS LEGISLATION
Tobacco advertising prohibition
The response is being considered by the government and is expected to be tabled in the future.

A response is expected following finalisation of disallowable instruments (currently before Parliament); and development of the test for the Social Security Guide in line with the disallowable instruments, among other matters. Finally text of the Social Security Guide, which includes key issues raised in the report, is still in the process of being finalised following consultation with key stakeholders and the Minister.

COMMUNITY AFFAIRS REFERENCES
A hand up not a hand out: Renewing the fight against poverty – Report on poverty and financial hardship
The response was tabled on 27 March 2006.

The cancer journey: informing choice – Report on the inquiry into services and treatment options for persons with cancer
response is under consideration and will be tabled shortly.

Quality and equity in aged care
Australian government policy with respect to a number of recommendations is currently being developed, and the government response to the report is being delayed to allow for completion of this process.

CORPORATIONS AND SECURITIES (Joint Statutory)
Report on aspects of the regulation of proprietary companies
The response is being finalised and will be tabled in the near future.

CORPORATIONS AND FINANCIAL SERVICES (Joint Statutory)
Report on the regulations and ASIC policy statements made under the Financial Services Reform Act 2001
The government continues to respond to this report through changes to the Corporations Regulations and ongoing proposals to make further refinements to the regulation of financial services based on public comment. A response to this report will be tabled following implementation of these changes to the law.

Review of the Managed Investments Act 1998
Substantial changes to financial services regulations are currently being implemented. The impact of these changes on the operation of managed investment schemes will have to be evalu-
ated. A response to the report will be provided in due course.

**Inquiry into Regulation 7.1.29 in Corporations Amendment Regulations 2003 (No. 3), Statutory Rules 2003 No. 85**

The government continues to respond to this report through changes to the Corporations Regulations and ongoing proposals to make further refinements to the regulation of financial services based on public comment. A response to this report will be tabled following implementation of these changes to the law.

**Money matters in the bush: Inquiry into the level of banking and financial services in rural, regional and remote areas of Australia**

The response will be finalised as soon as possible.

**Report on the ATM fee structure**

The response to this report is to be included with the response to the report on ‘Money Matters in the Bush’.

**Corporations Amendment Regulations 2003 (Batch 6); Draft Regulations: Corporations Amendment Regulations 2003/04 (Batch 7); and Draft Regulations: Corporations amendment Regulations 2004 (Batch 8)**

The government continues to respond to this report through changes to the Corporations Regulations and ongoing proposals to make further refinements to the regulation of financial services based on public comment. A response to this report will be tabled following implementation of these changes to the law.

**Corporations Amendment Regulations 7.1.29A, 7.1.35A and 7.1.40(h)**

The government continues to respond to this report through changes to the Corporations Regulations and ongoing proposals to make further refinements to the regulation of financial services based on public comment. A response to this report will be tabled following implementation of these changes to the law.

**Property investment – Safe as houses?**

The Australian government is considering the recommendations of the Committee and will table a response in due course. However, before finalizing and tabling its response the Government believes it is important to consider any recommendations made by the Ministerial Council on Consumer Affairs (MCCA) working party that is currently investigating property investment advice. The MCCA working party is due to report shortly.

**Timeshare: the Price of Leisure**

The government currently considering the recommendations and a response will be provided in due course.

**ECONOMICS REFERENCES**

**Report on the operation of the Australian Taxation Office**

The Australian Taxation Office has carefully considered the recommendations that relate to it, but several of the recommendations were overtaken by legislative and other developments. A report showing the current status of the recommendations will be prepared shortly.

**Inquiry into mass marketed tax effective schemes and investor protection – Interim report; Second report: A recommended resolution and settlement; and Final report**

After the Committee’s final report, the then Commissioner of Taxation announced a settlement offer for participants in mass marketed investment schemes which was accepted by the vast majority of participants. The Parliament has also recently passed laws giving the Commissioner greater powers to act against promoters of these schemes.

**Consenting adults deficits and household debt – Links between Australia’s current account deficit, the demand for imported goods and household debt**

The report is in the final stages of clearance and is expected to be tabled shortly.

**ELECTORAL MATTERS (Joint, Standing)**


The Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006, which was introduced into the Parliament on 8 December 2005, gives effect to the government’s response to a number of the Committee’s recommendations which the government considers to be a priority. The government is consider-
ing the remaining recommendations and will table its full response to the report in due course.

EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES

Bridging the skills divide
The response will be updated after the 2006-07 Budget and is expected to be tabled later in the year.

Beyond Cole: The future of the construction industry: Confrontation or Cooperation?
The response was tabled on 7 February 2006.

Unfair dismissal and small business employment
The response was tabled on 30 March 2006.

Indigenous Education Funding – Final Report
The response is being updated to reflect most recent developments and will be tabled in due course.

Student income support
The response is currently being drafted through a coordinated approach with relevant line and central agencies. It is expected to be tabled within the next three months.

Workplace agreements
A response is expected to be tabled in the near future. The Workplace Relations Amendment (Work Choices) Act 2005 deals with a number of issues canvassed in the report.

ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES

The value of water: Inquiry into Australia’s urban water management
A response will be tabled shortly.

Regulating the Range, Jabluka, Beverley and Honeymoon uranium mines
An extensive consultation process is continuing. A draft response will not be ready before late 2006.

The Australian telecommunications network
The government considers that the substance of SECTARC’s recommendations of the ‘Australian Telecommunications Network’ report are effectively addressed by the telecommunications regulatory framework, particularly following its further revision in 2005, and other recent government initiatives such as the $1.1 billion Connect Australia package. As such, the report has been overtaken by events and the government will not be tabling a response.

Competition in broadband services
The government considers that the substance of SECTARC’s recommendations of the ‘Competition in broadband services’ report are effectively addressed by the telecommunications regulatory framework, particularly following its further revision in 2005, and other recent government initiatives such as the $1.1 billion Connect Australia package. As such, the report has been overtaken by events and the government will not be tabling a response.

Turning back the tide – the invasive species challenge: Report on the regulation, control and management of invasive species and the Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002
A draft response is in the final stages of consultation and will be tabled in due course.

Lurching Forward, looking back: Budgetary and Environmental implications of the Government’s Energy White Paper
A response has been drafted and will be tabled in due course.

The performance of the Australian telecommunications regulatory regime
The government is currently considering whether there are any outstanding items to response to following the legislative reforms made in September 2005 and the commencement of the Connect Australia program.

FINANCE AND PUBLIC ADMINISTRATION REFERENCES

Staff employed under the Members of Parliament (Staff) Act 1984
A response is being prepared and will be tabled as soon as possible.
Regional partnerships and sustainable regions programs
A response is being prepared and will be tabled as soon as possible.

Matters relating to the Gallipoli Peninsula
The government’s response is being prepared and will be tabled as soon as possible.

Government advertising and accountability
A response is being prepared and will be tabled as soon as possible.

FOREIGN AFFAIRS, DEFENCE AND TRADE (Joint, Standing)

Australia’s Maritime Strategy
The response was tabled on 15 June 2006.

Australia’s engagement with the World Trade Organisation
The response was tabled on 2 March 2006.

Australia’s human rights dialogue process
The response was tabled on 2 March 2006.

Reform of the United Nations Commission on Human Rights
A government response is not required.

Review of the Defence annual report 2003-04
The response was tabled on 27 March 2006.

Australia’s free trade agreements with Singapore, Thailand and the United States: progress to date and lessons for the future
The government’s response is under consideration.

FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES

Mr Chen Yonglin’s request for political asylum
The proposed response is currently being prepared and will be finalised as soon as possible.

Opportunities and Challenges: Australia’s Relationship with China
The government has agreed with the Committee that a consolidated response will be provided to the recommendations in both Part 1 “Opportunities and Challenges: Australia’s Relationship with China”; and Part 2 “China’s Emergence: Implications for Australia”.

The removal, search for and discovery of Ms Vivian Solon – Final report
The proposed response is currently being prepared and will be finalised as soon as possible.

FREE TRADE AGREEMENT BETWEEN AUSTRALIA AND THE UNITED STATES OF AMERICA (Select)
Final Report
The response was tabled on 9 May 2006.

INFORMATION TECHNOLOGIES (Select)
In the public interest: Monitoring Australia’s media
The government is finalising its response to the committee’s report which will be tabled in due course.

LEGAL AND CONSTITUTIONAL LEGISLATION
Provisions of the Law and Justice Legislation Amendment (Serious Drugs and Other Measures) Bill 2005
The recommendations were responded to in the Senate debate on 7 November 2005.

Provisions of the Anti-Terrorism Bill (No. 2) 2005
The report was responded to in the second reading speech and amendments the government made to the bill.

LEGAL AND CONSTITUTIONAL REFERENCES
Reconciliation: Off track
The government is still considering its response.

Legal aid and access to justice
The response was tabled on 7 February 2006.

The road to a republic
The response will be tabled in due course.

They still call Australia home: Inquiry into Australian expatriates
The proposed response is being considered and will be tabled in due course.

The real Big Brother: Inquiry into the Privacy Act 1988
The response is being considered by the government and is expected to be tabled shortly.
MEDICARE (Senate Select)
Medicare – healthcare or welfare? and
Second report: Medicare Plus: the future for Medicare?
The large number of measures contained in the Strengthening Medicare, 100% Medicare and Round the Clock Medicare packages have addressed most of the issues examined by the Senate Select Committee on Medicare.

Development and implementation of these policies has been an ongoing process. A formal government response to the Senate Select Committee on Medicare is expected to be tabled in the near future.

MIGRATION (Joint, Standing)
Detention centre contracts: Review of Audit report No. 1 2005-06 – Management of the detention centre contracts – Part B
The proposed response is currently being prepared and will be finalised as soon as possible.

MINISTERIAL DISCRETION IN MIGRATION MATTERS (Senate Select)
Report
The proposed response is being finalised for government consideration.

NATIONAL CAPITAL AND EXTERNAL TERRITORIES (Joint, Standing)
Norfolk Island electoral matters
A response will be considered once the government has made a decision on the future governance arrangements for Norfolk Island.

Antarctica: Australia’s Pristine Frontier. Report on the adequacy of funding for Australia’s Antarctic Program
A response is being drafted and will be tabled in due course.

Norfolk Island Financial Sustainability: The Challenge – Sink or Swim?
A response will be considered once the government has made a decision on the future governance arrangements for Norfolk Island.

PUBLIC ACCOUNTS AND AUDIT (Joint Statutory)
Corporate governance and accountability arrangements for Commonwealth Government business enterprises, December 1999 (Report no. 372)
The government is considering its response to outstanding recommendations and a response will be tabled in due course.

Access of Indigenous Australians to Law and Justice Services (Report no. 403)
The response was tabled on 2 March 2006.

Review of Auditor-General’s reports 2003-04 third and fourth quarters; and first and second quarters of 2004-05 (Report no. 404)
The response is being prepared and will be finalised as soon as possible.

Review of Aviation Security in Australia (Report no. 406)
As agreed with the Committee, the Department Transport and Regional Services provided a letter dated 16 February 2006, acknowledging the interim report. A response will be provided when the final report is tabled.

RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION
An appropriate level of protection? The importation of salmon products: A case study of the administration of Australian quarantine and the impact of international trade arrangements
A response is being considered by the government and is expected to be tabled shortly.

Biosecurity Australia’s import risk analysis for pig meat
Legal processes relating to the import risk analysis have been completed. A response by the government is in preparation.

Administration of Biosecurity Australia – Revised draft import risk analysis for bananas from the Philippines
A response is being considered by the government and is expected to be tabled shortly.
Thursday, 22 June 2006

Administration of Biosecurity Australia – Revised draft import risk analysis for apples from New Zealand
A response is being considered by the government and is expected to be tabled shortly.

Regulatory framework under the Maritime Transport Security Amendment Act 2005
A response is being considered by the government and is expected to be tabled shortly.

RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES

Rural water use
The response is in the final stages of clearance and is expected to be tabled in the near future.

Australian forest plantations: A review of Plantations for Australia: The 2020 vision
The response is in the final stages of clearance and is expected to be tabled in the near future.

Iraqi Wheat Debate: repayments for wheat growers
The government’s response is in the final stages for clearance.

The operation of the wine-making industry
The response is in the final stages of clearance and is expected to be tabled in the near future.

SCRUTINY OF BILLS (Senate Standing)

Third report of 2004: The quality of explanatory memoranda accompanying bills
A response will be tabled in due course.

SUPERANNUATION AND FINANCIAL SERVICES (Senate Select)

Report on early access to superannuation benefits
The response was tabled on 19 June 2006.

TREATIES (Joint, Standing)

Treaties tabled on 7 December 2004 (3) and 8 February 2005 (65th report)
The government’s response is being finalised and will be tabled in due course.

Treaties tabled on 7 December 2004 (4), 15 March and 11 May 2005 (66th report)
The committee received a letter on 30 November 2005 regarding the recommendations. The response will be tabled as soon as possible.

Treaties tabled on 21 June 2005 (67th report)
A government response not required.

Treaties tabled on 7 December 2004 (5) and 9 August 2005 (68th Report)
A government response not required.

Senator BARTLETT (Queensland) (3.58 pm)—by leave—I move:

That the Senate take note of the documents tabled earlier today.

It is particularly important to look at these documents in the context of the current public debate and the debate within this Senate chamber about the role of Senate committees and apparently—according to statements made by the leader of the government in this place, Senator Minchin, in recent days—the failure of the system we have with Senate committees. Until those statements were made, I was not aware that the system had failed or even that others in the government had thought it had failed.

Looking at the report to the Senate on government responses outstanding to parliamentary committee reports that has just been tabled, to put a bit of history to this, as is quite helpfully detailed in the document, this is a practice that has been in place since 1973. It used to be that the government ministers would respond to the tabling of a committee report and respond to the recommendations within those reports within six months. The new Labor government in 1983 made a commitment to shorten that period to three months. When this government came into power in 1996, it affirmed, according to this document, its commitment to respond to relevant parliamentary committee reports within three months of their presentation.

Let us look at the reality of how prompt the government’s responses to committee reports are after being in office for 10 years. I will only pick out some of the reports I know the detail of; I will not pick on all of them. There might be valid reasons for the
time taken to respond to some of them, but we should keep in mind the commitment of the government to respond to committee reports and the recommendations they contain within three months.

We saw tabled just a few moments ago the government response to the Community Affairs References Committee report on the delivery of services and treatment options for persons with cancer, a report that I am fairly sure was unanimous. The report was tabled on 23 June last year, so the government have had 12 months almost precisely to respond to it. Maybe you could say that taking a year to respond was just a one-off, but I can give another example in the environment references committee report. Although I am currently chair of that committee, I was not at the time of the presentation of the report into the invasive species challenge called *Turning back the tide*—which was a report on the regulation, control and management of invasive species.

There was also a private senator’s bill, which was mine, that suggested amendments to the EPBC Act. The committee recommended unanimously not to proceed with my bill—it totally rejected what I proposed—so I probably should not be drawing attention to it. But it also brought into place, unanimously, a lot of recommendations about what was needed to do better on invasive species. It is an issue that I know is of concern to many people on all sides of the chamber. It costs people in rural and regional areas in particular an enormous amount of money, apart from its environmental impact. The report was tabled in December 2004. It was a unanimous report with a range of important recommendations. Eighteen months later: no response. The only responses we have had from government are: ‘response being prepared’, ‘response being considered’, ‘response available soon’ or ‘response available in the near future’. Those are the sorts of responses that the government puts forward. But the reality is that 18 months later there is no response.

The issue of water is a crucial one, and is more crucial now than it was when the environment committee held an inquiry into Australia’s urban water management. The report was tabled on 5 December 2002. I do not think it was unanimous, but it certainly had some components that were. Again, the inquiry was held before I became chair of the committee; I think my colleague Senator Allison was chair at the time. There is still only an interim response to the report. There has been no full response.

This not only reflects badly on the Senate but also points to where the real problem is. The biggest problem in the committee process is not, I think, whether or not there is a government chair, a Labor chair, a Democrat chair or a Green chair; it is that the committees do all this work and produce all these recommendations—they certainly do in my experience and in the experience of many of us here, although I would not say that is universal. They attempt to find common ground to try to get unanimous recommendations and put forward constructive proposals but are met with silence—a total absence of any response at all from the government.

I am not saying the government should agree to all the recommendations. The other day they responded, as they sometimes do, to a superannuation committee report on early access to superannuation benefits. I remember reading it. The government’s response was presented just a few days ago. The government rejected, I think, all but one of the recommendations, and that is fine. The government can reject them and put forward the reasons why. The problem is that that response took four years and four months to be presented—it took four years and four months to say, ‘No—don’t think so’. How
ridiculous! It shows contempt not just for the Senate and the committees but also for the public.

I am sure we all know this, because we are all involved in Senate committees, but let me remind senators that perhaps people outside do not realise how much work people put into submissions to committees, particularly businesspeople and community organisations. They do not have lots of spare time. They do not have lots of spare money. But they put in the time to put in submissions. They put in the time to come and sit before public hearings, give their views and answer questions because they want to make a difference. They want to influence the public debate because they want to influence the direction of policy. What an insult it is to them to produce a report with recommendations—based on their evidence and after all of their work—that is met with total silence. That is where the real problem lies in our committee process.

If the government genuinely want to fix up the effectiveness of our committee process, I suggest they look at the report on government responses to inquiry reports and at their complete failure in so many areas to respond to so many substantial reports with significant recommendations. I know there are some inquiry reports listed in that document that were partisan reports or reports where clearly there was a split along party lines, such as some of the telecommunications and workplace relations ones. Personally, I do not believe that that is an excuse for the government not responding. In fact, it is easier for them to respond because they already have their response in mind. It is predetermined, partisan and on party lines. But we should not fall for the myth that there has been a whole raft of committee inquiries that have all been party political and partisan point-scoring exercises with no substance to them.

The vast majority of reports listed in the report on government responses are reports of substance. A very significant component of them—the majority, I believe—have unanimous recommendations. They might have a few additional comments or dissents to some recommendations, but the bulk of them are unanimous. Frankly, I am sick of spending a lot of time genuinely working constructively in committee inquiries with my colleagues to bring down reports and then hearing nothing. I am not saying that that is the only value that Senate committee reports have, which is just as well because, to use the invasive species example, that report has been very influential in driving actions of federal and state governments and other bodies in the community. It has provided a useful benchmark to use to measure actions against, and it has provided a lot of valuable information that people draw on.

Government responses are not the be all and end all. It is not all purely us providing a report and then begging the government to please accept it, but the government’s lack of response is a key flaw and I believe it is significantly diminishing the effectiveness of the committee report process. That is something that I believe must be addressed, because it already reflects poorly on the Senate. Senators may recall the series of reports—I think they were by the Sydney Morning Herald—on just this factor written about a year ago. And it is not a matter of who controls the committees. The government is just as tardy—in fact, it is even more tardy—in responding to House of Reps committee reports that are government chaired and controlled. It is even more dismissive of them, so if that is what we have got to look forward to once government members are chairing all the Senate committees, then God help us. It is a completely unacceptable situation.

Mr Acting Deputy President Chapman, as the chair of the Joint Committee on Corpora-
tions and Financial Services—a committee that I am not involved with, but my understanding is that it often brings down constructive and unanimous reports—you will be interested to know that it has had very slow responses from the government. I have reports going back to 2002 here that have still not been responded to properly by the government. There is a whole series of them. I can see nine or 10 from 2002 through to 2005 that have still not been responded to in areas to do with ASIC, corporations amendments, property investment and the like.

Some of them may have been surpassed by time—I would hope so; you would not want policies to sit in a vacuum for all of that time—but that is still no excuse not to respond, and it is an affront to the Senate and the parliament not to have responses. And for a government to come in here talking about some problem with the way the committees are running when they come up with performances like this is a joke. I suggest they look at this first, before they start trying to make so-called improvements to the committee structure.

Question agreed to.

AUDITOR-GENERAL’S REPORTS

Report No. 48 of 2005-06


DOCUMENTS

Tabling

Senator SANTORO (Queensland—Minister for Ageing) (4.09 pm)—I table the following government documents:

Parliamentarians’ travel paid by the Department of Finance and Administration for the period July to December 2005

Former parliamentarians’ travel paid by the Department of Finance and Administration for the period July to December 2005

Parliamentarians’ overseas study travel reports for the period July to December 2005

Expenditure on travel by former Governors-General paid by the Department of Prime Minister and Cabinet for the period 1 July to 31 December 2005, and January 2004 to December 2005.

COMMITTEES

Community Affairs Legislation Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Chapman) The President has received a letter from a party leader seeking a variation to the membership of a committee.

Senator SANTORO (Queensland—Minister for Ageing) (4.10 pm)—by leave—I move:

That Senator Crossin replace Senator Polley on the Community Affairs Legislation Committee for the committee’s inquiry into the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006.

Question agreed to.
Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (4.11 pm)—We are debating the Fuel Tax Bill 2006 today, which will bring into effect legislation that will remove excise from many fuels. It is designed to simplify the way tax credits for fuels are administered. It replaces and adds to the Energy Grants (Credits) Scheme. And what it effectively does is provide a mechanism to allow a greater number of businesses to claim back the fuel tax that has already been paid. There are a number of aspects of this bill which I am happy to commend. These include the provision to allow rebates on tax paid to all off-road fuel users. In effect, this allows fuel excise exemption for every farmer that has a petrol pump auger or for any petrol that is used off-road. That is going to be a great benefit to many regional and rural users of petrol on farms.

I see Senator Scullion in the chamber today. He will be rejoicing on behalf of the fishing community, because it will also exempt all petrol used in outboard motors. As a former fisherman, and a very successful one at that, he knows it will make a huge difference to the fishing industry. This bill removes about $800 million in extra fuel tax credits to business right across Australia, whether it be fishing, forestry, mining or primary producers. This means any petrol or fuel that is used in those industries will have an excise exemption, and that is a big plus. It means a business will be able to operate more effectively as the level of tax for these businesses is being reduced.

One aspect of the bill is to centralise a system of fuel tax credits through the Australian Taxation Office, rather than through a number of different departments and schemes as is currently the case. In practical terms, this means that rebates are to be processed through the Business Activity Statement rather than through the automatic claiming system that currently exists. That had certain problems for rural farmers and fishermen. There was a claiming system that farmers used that gave almost immediate tax excise relief. You put your statement through to the appropriate department and your tax excise rebate would be credited to your bank. In the case of fishermen, they had some particular arrangement that meant they did not pay excise at all. The people they bought the fuel from made the exemption claim on their behalf. When this position was reversed, many of my colleagues, including Senator Fiona Nash, Senator Nigel Scullion and Liberals such as Senator Campbell and Senator Macdonald, took it to the appropriate ministers and the Prime Minister, and we were able to get a two-year transitional period for claiming rebates through the BAS.

Many farmers and fishermen would have had to find the excise. In the case of fisher-
men, it could have been $3,000 or $10,000 a month. That would have been extra cash that they would have had to find and pay, before they got it back through their BAS three months later. I want to make it very clear that a number of us went to the Prime Minister and to the Treasurer, and we were able to get a two-year transitional payment. When these two years are up there is no doubt we will review it. If needed, we will go again and ask for some sort of protection and comfort for these particular industries. In that meeting with the Prime Minister we pointed out to him that there was an imbalance in the fishing industry. Some of the payments that were being made on the Barrier Reef were subject to tax. He took that on board, particularly concerning the fishing industry, and came up with an ex gratia payment on top of another payment that put another $20 million into the fishing industry to pay for what had happened on the Great Barrier Reef through GBRMPA’s incapacity to get it right. In both those areas, we can honestly say that we have done our best for our constituents, and that we really stood up for them.

This change was going to have major cash flow implications for thousands of small businesses, and we made sure the voice was heard in the right areas. Existing claimants of the fuel tax credits or rebates will now have two years to adjust to the different claiming methods. From July 2008 the new fuel will then enter into the rebate system. As I have said, if it then creates problems we will be there monitoring the situation. If it cannot be accommodated or if it is going to cause too much hardship to these particular businesses in primary industry then we will be in there again fighting for them.

In the four years from 2008 to 2012, 50 per cent of the tax paid on these fuels will be able to be claimed. From 2012 the tax paid on off-road use of all fuels is fully rebatable. Therefore, under this act, the effective application of fuel tax will be limited to: business use of fuel in on-road applications of motor vehicles with a gross vehicle mass of 4.5 tonnes or less; business use of on-road motor vehicles with a gross vehicle mass of more than 4.5 tonnes, but only to the extent of the road user charge; and private use of on-road motor vehicles, certain off-road applications and aviation fuel. Fuel excise on fuels used for burners, heating or electricity generation will also be fully rebatable from 2006, making them effectively tax free.

The use of petroleum for manufactured products other than fuel, such as solvents and paint, will be effectively excise free. Manufacturers of these products will then be required to make these excise claims under their BAS. There have been some submissions to the Senate inquiry saying that this will put an extra administrative burden on the cash flow for some of these paint and solvent manufacturers. We will have to take that on board. I note the recommendation by Senator Brandis that the government re-examine the effects of the legislation on manufacturers who use hydrocarbons for non-fuel manufacture process during the two-year transitional period, with a view to minimise and offset any adverse effects. I used to work in the paint business, and I still keep in contact with those people.

The bill also requires those claiming more than $3 million in tax credits to commit to the Greenhouse Challenge Plus programs, which ensure they are using clean fuel and driving vehicles that produce low emissions. Programs such as this benefit the alternative fuels like biodiesel and ethanol. The large trucking companies and diesel fleet operators will be part of a program, and I ask that those administering those fleets consider a requirement for an increase in biodiesel use as one of the elements to keep their fleets driving and producing low emissions.
There is a contentious issue here. The bill also repeals the Fuel Sales Grants Scheme and the Petroleum Products Freight Subsidy Scheme. This will allow the government to redirect funding from those schemes directly into road funding programs. That money, which used to give a 1c, 2c or 3c a litre freight subsidy, has now gone into the very popular Roads to Recovery program. That was the will of the particular councils that did not believe that the freight subsidy scheme was being all that effective. Nevertheless, there are some people who are not happy with this. But the money did not go into consolidated revenue; it went into the Roads to Recovery funding that is made directly available to all local governments.

The bill provides the framework for the fuel tax credits system, which will be used by the producers of alternative fuels to claim excise rebates on the production of alternative fuels from 2011. Clarification has been received this week that this bill does not specify the excise rates that will apply to domestic and imported ethanol. That legislation is yet to come. But that does not change the fact that from July 2011 excise will apply to domestically produced ethanol and biodiesels for the first time. From that date, the effective excise rate for domestically produced and imported ethanol will be the same. That concerns a number of people in the biofuels industry.

The bill also limits the level of excise able to be rebated to that of actual excise paid. This has the effect of making biodiesel more expensive to the end user. This is a very contentious issue. The argument depends on whether the 38c was an excise rebate or a production subsidy. I have argued long and hard, and with just about everyone who will listen to me in this place, that it was a production subsidy, but my arguments have not met with success. I have been told that it was an excise rebate, and you cannot claim an excise rebate on excise that has not been paid. There lie the two different arguments. Whichever argument is right, the government is saying that it is an excise rebate. Therefore, if you are an off-road user, you cannot claim a rebate on excise that was never there in the first place.

This is going to be a disincentive to current users of biodiesel. I am not going to beat about the bush: it will lead to current biodiesel users reverting back to petrodiesel in order to claim a full tax rebate. However, as I work it out, biodiesel should have some market advantage in that it will be a number of cents cheaper for on-road use.

The Senate committee also addressed this issue, and commented on the disincentive to biodiesel’s use that is in the bill. The Brandis committee made certain recommendations that would have assisted the biodiesel industry. Unfortunately, those recommendations were not taken up. I note that Senator Brandis is now entering the chamber. I have argued strongly that his view is the correct view, but I have not been successful. In a coalition, you have to take the good with the bad. There are going to be serious consequences because of this. We will monitor them. If the worst comes to the worst, we will fight for what Senator Brandis said—and I believe him—about this: that it was a subsidy to increase production.

Everyone in this chamber will be aware that I have been very vocal about the importance of a strong and vibrant biofuels industry for this nation. I am conscious of the types of support that biofuel producers are receiving overseas and the importance of attracting new investment to the industry. Australia is facing a crisis in crude oil, both in price and in supply. In 2001, we produced 31 billion litres, which was pumped out of Bass Strait and other places. Last year, Australia produced 18 billion litres of fuel. In
2004, oil imports accounted for approximately 13 per cent of our balance of trade. This year, oil accounts for 60 per cent of our balance of trade.

Internationally, governments are reacting to the crisis. Governments are enacting legislative mechanisms to boost biofuel uptake and introducing taxation and excise regimes to encourage greater biofuel production. Australia has joined the call for more biofuels. To call is one thing. The reality is that the policy settings in place are pretty short term. We are aiming for a target of 350 million litres, which is 0.75 of one per cent. That is a very small amount when you look at the fuel shortage crisis the world is facing. I might add that someone told me the other day that 12 per cent of the world’s population drive cars. It will be around 15 per cent in a couple of years time, putting more demand on fossil fuel.

There is a lot of buzz about biofuels in our time. Bill Gates is into it. Richard Branson has invested in it. In Australia, Transfield, Colonial and Babcock and Brown have interests in potential biofuel production. But what is the reality of the Australian situation? There are investors with millions of dollars interested in biofuels who are waiting for an indication from government that it is serious about biofuels. Production has been planned, costed and in many cases financed, but nothing is happening.

There have been no new ethanol plants built in Australia since 1990. Ten years ago Australia had three ethanol producers and, for all the government support of the industry, there are still only three ethanol producers. These producers have surplus products in tanks right now, waiting for a buyer. Ethanol that could reduce the cost of petrol by 3c to 4c a litre is being stored because the big four oil companies do not want to buy it. Australian producers at the moment have the capacity to supply over 100 million litres of ethanol. Currently, petrol retailers—and mostly independents—are buying about 30 million litres. The independents are buying probably 80 or 90 per cent of it. In my estimation, the independents are buying around 30 million litres and the four big oil companies are buying about 10 million litres. That is more than this time last year. This is really just a catch-up. We are using less than half the ethanol that was being used in Australia in 2002, when the Labor Party engaged in political scaremongering at the expense of an emerging industry.

A small number of biodiesel production facilities are operating in Australia. These produce and market some of their products directly to large diesel fleets and so have been able to avoid the reticence of oil majors. This bill and the application of the tax credits system has now led these producers to wonder where they are going to sell their product. The response from the oil companies to the Prime Minister’s voluntary industry action plan process has been slow and laboured. In the six months since the action plan was announced, there have been very few new contracts announced. There is certainly no indication that the targets nominated by the oil companies themselves will be met—and that is 89 million litres. I believe they have taken up about 10 million litres. (Time expired)

Senator WEBBER (Western Australia) (4.32 pm)—As a member of the Senate Economics Committee, it gives me a great deal of pleasure to rise and speak on the Fuel Tax Bill 2006 and the Fuel Tax (Consequential and Transitional Provisions) Bill 2006. The economics committee inquiry into this package of legislation is an example of one of the ways that the committee process in this place can work very well. So I want to place on record my thanks to other members of the committee and the committee secretariat for
what was a fairly rushed process but, none-
theless, I think a very productive process.

In fact, it would seem just the thought of
having a Senate Economics Committee in-
quiry into this legislation produced action on
the part of the government. It is interesting to
note that as soon as our inquiry was an-
ounced, once it was agreed to by govern-
ment senators, the government made an an-
nouncement about the transitional arrange-
ments for this bill and decided to allow a
further two years for some of the transition.
Whilst as a member of the opposition I wel-
come that announcement, I think we all need
to be aware—and I noted this at the time—
that if this is the path that the government
insists on taking us down then it is incum-
bent on the Assistant Treasurer and on Treas-
ury to ensure that this is real transition, that
we really do spend the next two years work-
ning on transition and addressing a lot of the
cash flow and other issues the businesses
have raised. I for one do not want to be hav-
ing the same argument and the same rush in
two years time. I think that, for the future of
the industry and for the future of small and
medium businesses, we need to get this right
and to work on effective change.

As has been mentioned by others in this
debate, whilst these bills deal with a number
of aspects, some of the aspects of these bills
have caused a great deal of concern within
the biofuels industry in particular. Renew-
able Fuels Australia summed up the views of
a number of submissions, claiming that there
has been a lack of policy coordination and
consistency which has hindered the growth
of the biofuels area. They said, as quoted in
our report:
The Biofuels Taskforce, for example, represents
the development of positive policies for new
ethanol and biodiesel industry growth, while Fuel
Tax Bill 2006 represents a clear example of im-
pediments being put in place that will undermine
the achievement of those policy objectives.

Again, if we are going to have transitional
arrangements and have this debate, it is in-
cumbent on all of us to get a consistent ap-
proach to the development of this industry
and to get it right.

As a member of the Senate Economics
Legislation Committee and also as a West
Australian, I was approached by a number of
people in the lead-up to the Senate inquiry. I
was approached by people from the WA
Fishing Industry Council, who talked about
some of the cash flow problems that the
changes—as announced at the time, before
the two-year transition was announced—
would cause to their members who, if they
were to submit for the subsidy when they did
their BAS, would be paying for the fuel up
front. They go away to sea for between three
and six months at a time, so that is a very
hefty cost for them to carry before they come
back to the mainland and submit their BAS.
So it is good to see that we have taken that
into account. I was also approached by a
number of people from the biofuels industry.

In considering this, the Labor members of
the committee supported the recommenda-
tions that were made by the chair of the
committee—and the committee obviously
recommended that the bills be passed. How-
ever, the committee considered that there are
a number of issues that require resolution
before the bills proceed. Accordingly, the
committee recommended that:

• during the transition period announced by the
  Minister, the Government re-examine the ef-
  fects of the legislation on manufacturers who
  use hydrocarbons for non-fuel manufacturing
  processes, with a view to minimising and
  offsetting any adverse effects;

• the Bills be amended to exempt oil recycling
  companies from the operation of the legisla-
  tion;

• the Government implement an urgent review
  of the effectiveness of the Product Steward-
  ship for Oil program, with a particular focus
on whether the program will continue to be effective in meeting its objectives following the abolition of the energy grants credits scheme and the implementation of the fuel tax credits system;

• the Minister for Environment and Heritage initiate a review of disposal requirements applying to used oil, and in particular whether more stringent standards on the use of this material as a burner fuel are appropriate; and

• the Government reconsider whether Sub-clause 43-5(2) of the Bill is fully consistent with the Government’s other policies in relation to encouraging the development of a biodiesel industry and if appropriate, exempt the industry from its operation in the meantime.

What is important to note with those recommendations is that they are an example of how committees in this place can work. Whilst the recommendations were put forward in the name of the chair, they were actually with the unanimous agreement of all committee members. Those of us from the opposition went on to make some additional comments after our examination of the legislation. We said that we believe the bill should be amended along additional lines. Firstly, the two-year transitional arrangements for early payment of the fuel tax credit should be provided for on an ongoing basis. Secondly, the 31 December 2006 date for receipt of applications for early payment should be dispensed with. Those are recommendations that, obviously, as a member of the opposition I wholeheartedly endorse.

As a Western Australian and having been involved in this inquiry, not only was I approached by people involved in the development of the biofuels industry in my home state and those involved in other industries that may use biofuels but also I have had cause to have discussions with my own state government. They have an across-government approach to encouraging the development of the biofuels industry and the use of biofuels. Kim Chance, one of the main ministers responsible in this area, has a number of concerns about the government’s approach to this. It is his view that the federal government needs to fix the unfair burden of the cash flow issues, which are particularly placed on small and medium businesses. It is his view that the initial bill would require fuel users to pay the fuel tax up front. I accept the two-year transition, but not getting credit until they lodge their BAS would actually target small and medium businesses, many of whom do not lodge their BAS with the regularity that perhaps others assume they do. In the view of Mr Chance:

The Australian Government should be looking to expand the E-Grant system as an option for farmers and fishers to claim their credits.

That is something that the committee discussed at length. He went on to say:

The Australian government should also provide a more detailed industry by industry assessment of the measures which it claims will result in savings to industry, with a view to ensuring that industries such as the agricultural and fishing sectors receive fair treatment within the scope of the bill.

That is a remark that I wholeheartedly concur with. Whilst Mr Chance supports the move to have large claimants join the Greenhouse Challenge Plus program, another issue that we discussed in some detail in the committee hearings, he believes that the federal government should acknowledge the businesses operating in regional and remote areas—something that Western Australia specialises in—may need additional administrative support and time to enact those changes. He said that this support would then ensure that the program is seen as a positive partnership with the government rather than an attempt by the government to shift responsibility and costs.

It is the view of my home state—and it is a view that I share—that some form of assistance should also be given to compensate
fuel users, particularly those in remote communities, for the impact of the removal of the Fuel Sales Grants Scheme. It is certainly my view that the case for the scheme remains just as valid now as it was in 2000. Mr Chance also suggested that there be a review of the legislation to ensure that it retains the current incentives for commercial operators to use blends with higher volumes of biofuel and that there is no disincentive for producers to set up plants in regional areas. I know of at least one company in Western Australia which has a long-term plan to establish facilities in regional towns in Western Australia, particularly those in the wheat belt, that are really struggling for any form of ongoing economic development and employment. Any adverse impact that this legislation has on that company will have a direct impact on the viability of those townships. That is something we all need to be aware of. Whilst I know it is the case in Western Australia, I am sure that we are not unique in having concerns in that area. Probably, when you look at that, consideration should also be given to simplifying the scheme so it is easier for people.

As part of its fuel tax regulatory changes, the federal government should delete section 43, a particular section of the bill that Labor senators have highlighted as a disincentive for farmers and fishers to purchase biodiesel as they cannot claim back the excise for biodiesel. The net effect is that biodiesel will become even more expensive and uncompetitive compared with diesel. I am sure that is not an outcome that we all want to see. Finally, when I was talking to Mr Chance, he said that in his view the federal government should, as part of its 350 million litre biofuels target, allocate a portion of the excise extracted from biofuels to supporting national and state based research and development of biofuels by allocating significant resources to appropriate research organisations. Improving the technology is critical to the future success of the biofuels industry. That is something that I am sure we all support.

Senator IAN MACDONALD (Queensland) (4.44 pm)—I am not happy with the Fuel Tax Bill 2006 and the Fuel Tax (Consequential and Transitional Provisions) Bill 2006 before the parliament at the moment. I live in rural Australia and, for most of the 15 years or more that I have been in the Senate, I have been the only Queensland senator living in and representing rural and regional Australia. In that time I have come to understand very precisely the impact of fuel on rural and regional Australia. If I want to go to a specialist from where I live, I will have to drive a round trip of about 200 kilometres. If the people in the Gulf Country, in western Queensland and up in the cape want to see a specialist, they will have to drive a round trip of over 1,000 kilometres. If children in my community want to go to university, they have to drive a round trip of 200 kilometres. Children in the cape, the gulf and western Queensland have to drive thousands of kilometres to do that. If you happen to be lucky enough to live in Brisbane, which most senators in this chamber from Queensland do, you have to drive five, 10 or perhaps 20 kilometres to get to university or a specialist.

That just highlights that, for rural and regional people, fuel is a real expense. At the present time, the cost of fuel, through international circumstances—there is nothing at all that this government or any other government in the world can do about that—is crippling for rural and regional Australia, not just for the people who live there but for people who travel up my way in caravans. The grey nomads, as they are called, come up and add an economic benefit to rural and regional Australia.
These bills contain a lot of benefits. Senator Boswell mentioned some of them and, if time permits, I will come back to them later in order to highlight that there are a lot of advantages in these bills. But there are impacts of these bills that particularly affect regional Australia and, despite the best attempts of the Assistant Treasurer and Minister for Revenue, and others, I do not think those impacts have been properly addressed in the package of bills before us.

In Croydon, on Tuesday morning when I inquired, you were paying something like $1.48 a litre for fuel, and that was after the Queensland government's 8c a litre subsidy. I might add, that is a subsidy that was introduced by a non-Labor government in Queensland, but it has been wisely continued by the current government. That is an enormous cost. Today, that fuel is subsidised to an extent of 2c or 3c a litre, whether you happen to live in Georgetown, Croydon or Karumba. In two weeks time, that 2c or 3c subsidy will disappear. I guess you could say that 2c or 3c is not a big amount when you are paying $1.60, but there are 10 customers of a petrol supplier in Georgetown who will pay, according to the proprietor of the fuel distributor, about $4,000 extra each with the removal of the 2c or 3c a litre subsidy.

Whilst that is being provided for in this bill, the decision was actually made a couple of years ago. The argument for removing it was that the 2c a litre subsidy was not getting through to the consumer, that some of the suppliers were snaffling it and that it was not making a difference. That came from a report that the government commissioned. Unfortunately and regrettably, I did not take as much notice of that at the time as I should have—I was busy as a minister at the time—and it escaped through. I do not recall what the evidence was, but I am suspicious of it. The government decided, on the basis of the report and this recommendation, that the subsidy should be scrapped and the money should go to roads—from memory, something like $297 million. The government believes that it is doing a good thing by putting that money into roads. It is putting it into Roads to Recovery, which is a great program that I was very instrumental in devising at the time that it was first implemented. It is one of the best programs that this government has ever devised. Roads are going to get another $297 million.

I will use the example of a council in the Gulf Country which desperately needs road infrastructure. They will probably get an additional $300,000 a year. By the same token, Brisbane will get $20 million a year from Roads to Recovery. Good on Brisbane. Brisbane desperately needs it. But the towns of Croydon and Georgetown up in the gulf desperately need road infrastructure and are going to get a little bit out of it. So the 2c or 3c a litre that country Australia was getting as a subsidy is being put into AusLink and Roads to Recovery. The main beneficiaries of that, I have to say with some regret, will be the more populated areas, usually in the southeast part of our country. I am concerned about that particular aspect of the matter.

In the same area there is now a new arrangement whereby trucks that are over 10 years old and over 4.5 tonnes will be paying 18c a litre extra for their fuel from 1 July. Currently they get a subsidy from their excise, but that will be removed if they have a truck that is over 10 years old. It does not apply to farmers on agricultural properties—and good luck to farmers—but there are many small business operators in the remote parts of Queensland, which I represent and that I travel to very often, who are not farmers and use their trucks, and they will be paying 18c a litre more for fuel.

I must say that there was not a lot of help in doing further research into this area, but I
hope my staffer, Mr Crisafulli, who did this for me has been accurate. He tells me that you can overcome that problem if you conduct regular engine maintenance and maintenance of the vehicle in accordance with the requirements set out in some material. This does seem to mean that, even if you have a 10-year-old or older vehicle, if you do adhere to the manufacturer’s specified maintenance schedule for the vehicle or do some other things like changing oil and oil filters regularly—there is a list of things in criterion 4—perhaps you can overcome that. That is not known well. I did not know about it until a couple of hours ago. So for those truckies who are despairing about having to pay 18c a litre more from 1 July—and that will put many of them out of business—I would certainly urge them to get a bit more information or give my office a call, if need be, and we can refer them to the material that is on a government website. Unfortunately, I cannot indicate what that is, but my office will be able to tell them that. So there may be ways to overcome this, but it is an impost which has to be addressed.

The third thing that I am concerned about with this bill relates to the fishermen and to certain farming users. At the present time, fishermen pay the excise but they get it immediately refunded because the fuel companies have been able to claim the excise for them. So the fuel companies have actually sold them the fuel excise free. So the fishermen pay it but get it back. The effect has been that they have been able to buy their fuel 38c a litre cheaper. Under this proposal, the 38c a litre excise will have to be paid upfront. It can be claimed back through the BAS in the normal course. Whether that is done three monthly or monthly, you will get it back.

But for the fishing industry, currently struggling under a lot of circumstances beyond their control, that immediate cash flow problem is going to be a real difficulty. This decision was made back in 2004, and this was a difficulty that the then Minister for Revenue and Assistant Treasurer, Mal Brough, raised with me about 12 months ago when I was then the fisheries minister. We were charged with understanding that that was government policy—it is sensible that everyone in Australia should have the same rules and that fishermen should not have a different set of arrangements to others—and we were tasked with trying to address the negative short-term effects of that on fishermen.

There has been a lot of work done between Treasury and the Department of Agriculture, Fisheries and Forestry over the year. They came up with the solution that, for a two-year period, fishermen will be able to claim back their excise almost immediately. ‘Almost immediately’ means that, if they put in the claim now, they will get it back within four and 14 days, according to Treasury. This claim has to be done on paper. Apparently, you cannot do it electronically. With the huge facilities the Australian Taxation Office has, one wonders why it cannot be done electronically and why it cannot be done instantaneously. Some of these fishermen do get substantial amounts of fuel and go out for two or three weeks at a time, and it will be a real impost to them.

Unfortunately, I left the position of Minister for Fisheries, Forestry and Conservation—which is a nice way of putting it—part way through this, and what has transpired is that the government has adopted this as a way to ameliorate the problems over a two-year period. My solution was that it would have been better to get each fisherman to calculate the actual cash flow implication to him and then for the government to pay them a grant. Once they get over the cash flow problem, things will right themselves because each three months or each month, as
they put in their BAS, they will be getting back the excise from the previous one. So it was only that first period that needed to be compensated.

The Labor Party have said in their minority report on the Senate investigation into this that, if this is going to work for two years—because this transition period of getting instantaneous refunds is needed—why can this not be done consistently, for ever and a day? I must say that I am rather attracted to that proposition. I am not quite sure whether the Labor Party are moving such an amendment. Unlike some of my colleagues, I do not go and speak to the media about these things and I do not go and negotiate with the Labor Party over things—so I do not know whether the Labor Party are moving such an amendment. But we do need to ensure that the impact on fishermen is carefully followed and, if there is a real problem to them, that some ameliorating work is done. I think my suggestion of giving a cash grant to fishermen would have been very appropriate.

Many of the fishermen who do not have big fuel bills will be surprised at the narrowness of the effect on them. If you work it out, it is really only the interest on the extra money you will have to borrow to bring forward your payments. But many in the fishing industry think it will be a problem for them. The Mooloolah River Fisheries wrote to me about this. They say:

We represent a considerable number of fishing and seafood operators in the Queensland area. On top of the huge increased costs of fuel, fishing closures, industry rationalization, and competition with global markets, the additional impact of an increase in the up front payment for fuel will represent increases of up to 40% in operating costs.

I do not think that is right, but they are the experts and that is what they tell me. They continue:

The conversion of fuel rebates to tax credits will take huge additional working capital amounts that are not viable.

And they go on:

Providers of fuel to fishing operations will no longer provide the necessary credit to operators, as their carrying costs will exceed any viable considerations. The impact will extend well beyond the direct operations of the industry, as it will severely impact on a huge range of companies and individuals who are totally or substantially dependent upon cash flow from the industry, through the supply of goods and services.

The Queensland Seafood Industry Association provided me with a copy of a letter from a fuel supplier regarding the situation if this scheme comes in. In their letter they say:

We wish to confirm that—and they mention the name of their company—will not be providing extended trading terms to customers affected by these changes.

Therefore, it is important that you address any concerns with your Accountant or the Tax Office immediately.

So I am concerned about the impact this might have on fishermen.

They are the issues over which I have some real difficulty with this legislation. I have had a number of discussions with Mr Dutton and with the Treasurer, Peter Costello, who has been, as ever, particularly helpful. I agree with them that this bill in its other form brings particular benefits to the farming, fishing, and rural and regional Australian areas. One benefit I just mention in passing is that the excise on petrol fuel for outboard motors will eventually under this legislation become completely refundable. That is going to be great for a lot of the inshore fishermen. So there are real benefits in this. I did intend to go through and highlight some of the benefits that this bill does have—it is not all negative—and in fact there are very substantial benefits, but time is
not going to allow me to highlight some of these substantial benefits that will follow from this.

There are problems with it that I believe could have been looked at a little more closely. There has been some discussion about biofuels and the excise on biofuels. Perhaps I have not read this properly, but I am not sure that issue is dealt with in this particular bill. The amelioration that is currently there—the extension by five years from 2006 up to 2011 of the so-called ‘five-by-five’ excise arrangements—is something that I would particularly like to give due credit to the Economics Legislation Committee for. That committee put down a report a few years ago. The committee chairman was Senator Brandis and I see that Senator Stephens was deputy chairman. I congratulate that committee for their perspicacity. The recommendation was adopted by the government, and congratulations to Senator Brandis for highlighting that those years ago and getting a better outcome for the biodiesel industry.

There is a lot more that I would like to say on this. In the last few minutes available to me I want to reflect on a couple of the comments from the Labor Party. They are very critical of some aspects of this bill. When I first came here in 1990, in every budget, and twice a year in between, we used to get an automatic increase in the excise. At the time that Mr Hawke became Prime Minister, I think—don’t hold me to this but it is around this order—excise was about 6c to 8c a litre. I think that Fraser had brought it in as an extra road subsidy and it was hypothecated to roads. Labor got in of course and increased the excise from 8c to somewhere over 40c a litre. One thing our government have done, and done very well, is to stop the automatic indexation of excise. We have actually reduced the excise over the period of time. So to hear some of the Labor people now criticising these issues—as I am criticising them, though I come with clean hands—is interesting. When Labor are in government they just whack up the excise because it is just another form of revenue. It impacts, as I said right at the beginning of my speech, on rural and regional people far more than it does on the majority of Australians—and I regret to say that by far the majority of people in this chamber live in the capital cities and in the major provincial cities. It is a problem. Our government has done much better. This bill in itself will do a lot of positive things. There are a few aspects of the bill, which I have highlighted at some length, with which I have some real difficulties that I have spoken with the Treasurer about. I will be participating in the committee stage of the debate to see whether there is some way or other that we can achieve resolutions to the issues that I have concerns about.

The ACTING DEPUTY PRESIDENT (Senator Murray)—Senator Eggleston, I understand you have some relevant documents to table.

Senator EGGLESTON (Western Australia) (5.04 pm)—Yes, Mr Acting Deputy President. On behalf of the Chair of the Economics Legislation Committee, Senator Brandis, I present additional information received by the committee on its inquiry into the provisions of the Fuel Tax Bill 2006 and a related bill.

Senator MILNE (Tasmania) (5.04 pm)—I rise today to say that I am deeply disappointed by this Fuel Tax Bill 2006 because it shifts all of the costs to our children and to future generations. I fail to see any advantage in this bill. I listened to Senator Ian Macdonald a moment ago saying that there were some positive aspects of the bill, but I cannot see them. I will explain why. The first question I ask is: what is the purpose of taxation? Why would you have a fuel tax? What
The purpose of it? It is an economic lever to achieve some sort of policy objective, otherwise why do you have taxes? You would assume that that policy objective is something to do with the good of the nation, regardless of your perspective in politics. I would argue that this Fuel Tax Bill is not reform; it is business as usual, and business as usual that is going to cost us all very dearly in the future.

The government does not have an integrated energy industry employment policy. There is no such policy. It is all ad hoc initiatives brought in here—one problem arises so they rush in with an ad hoc solution, and then another problem arises and they rush in with a supposed solution to that. Often they undermine one another. In its objectives for this particular legislation the government says that it wants to:

... apply in a consistent and transparent way to all relevant fuels and fuel users ... to be competitively neutral ... minimise [fuel] tax on business inputs ... minimise compliance and administration costs for business and government [and] take account of the government’s environmental, social and fiscal objectives.

What are these environmental, social and fiscal objectives? They are in no way stated. I have heard the government spokespeople saying the government cannot do anything about high oil prices. Where has the government been for the last decade in developing a strategic plan to reduce Australia’s dependence on imported oil? There has been no plan at all. Yesterday the figures came out saying Australia’s single biggest monthly bill—

Senator Ian Macdonald—You oppose nuclear power; you oppose hydro power; you oppose renewable forest power.

Senator MILNE—I draw Senator Macdonald’s attention to the fact that hydro power does not drive vehicles. I am talking about transport fuels. Australia’s single biggest monthly bill is for imported oil, and that is threatening to blow out the nation’s trade deficit as well as inflict more pain on motorists. The average trade deficit in the previous 12 months was $1.4 billion, meaning that, despite record commodity prices and strong global growth, the trade deficit has shown little improvement over the past year. When I came into the Senate I was horrified to find that the government had failed to understand that we are facing an era of oil depletion. We are already in a situation where the age of cheap, plentiful, easily accessible oil is over. I moved a motion in this Senate for an oil inquiry, which we are undertaking, and the community is welcoming it because it wants a strategic plan for addressing Australia’s future transport fuels.

Secondly, the government says that this will somehow help small business because it will extend, if you like, the ability to buy diesel without paying the excise—reducing excise to make diesel more easily available. But it does not address the fact that oil prices are going to continue to go up. It is not about trying to give people short-term relief on fuel prices; it is about the long-term switching of people onto alternative fuel supplies so we are not dependent on imported oil and ever-increasing high costs. That is the strategic nature of going with an alternative fuels plan—it is addressing a long-term reality that Australia cannot provide for its own oil so we need to go into a system of providing an alternative transport fuel.

This particular bill does not address climate issues, and I will get to that in a minute. In my view, it shows there is no long-term thinking. It is a complete missed opportunity. It does not address urban congestion; it does not address the public health issues to do with air quality because of vehicle emissions; it does not address the accessibility of cities and the economic cost to Australia of congestion; it does not address the oil issue; it does not address the climate issues; it does...
not address regional growth, regional development and regional jobs by way of the development of biofuels; and it does not address the opportunities for new export industries around those alternative fuels. As I said, it does not help small business. What it does do is help the big oil companies. The government’s predisposition in all these fuel tax areas has been, regardless of what it says about small business, to facilitate the big oil companies.

I will talk about the changed nature of the world. If you talk about reform then you look around and ask: how has the world changed and how do I have to respond to it? The world has changed because it is a world suffering global warming and oil depletion. Let me talk about global warming first. It is real. We know the icecaps are shrinking, the sea levels are rising, there is acidification of the oceans and there are extreme weather events by way of floods, droughts and fires. We are now looking at climate accidents whereby, if the West Antarctic icesheet or the Greenland ice were to disappear and slip into the ocean, we would have a five- to seven-metre rise in sea level. Your fuel tax reform does not look too hot in those circumstances.

We have human induced climate change; the issue is urgent. We have 10 to 15 years. We in the Senate right now have the opportunity to deal with it, but after that it is too late. You cannot leave it for a change of government. You cannot leave it for the next generation of senators. It is up to us. We have 10 or 15 years. We are the ones who are going to have to look at people in the future when they say, ‘Why didn’t you do anything about it when you had the opportunity to do so?’

The minister has said that we need a 60 per cent reduction in greenhouse gases by 2050. I ask: how much of that reduction are we going to expect as a result of a reduction in transport emissions? How are we going to get to this? What is our short-term target to reduce the transport effort in greenhouse gases, and what is the target for doing so? We know that, at the moment, transport and energy emissions are the greenhouse gas contributors: 50 per cent come from energy, 14 per cent from transport. From the Greenhouse Office we know that between 1990 and 2004, transport emissions grew by 23.4 per cent. What is worse still—and I would like the government members to take this in—is that by 2020 it is expected that there will be a 78 per cent increase in greenhouse gases from transport over 1990 levels.

Surely it is appropriate for a fuel taxation regime to address our greenhouse gas emissions. What is more, the fuel tax inquiry in 2002 said that fuel tax is an appropriate instrument to address greenhouse gas emissions. Obviously some forms of taxation are not, but this one is—fuel tax can address greenhouse gas emissions. Also, fuel tax arrangements should not impede or distort future developments of innovative technical solutions which can address fuel policy objectives. That is precisely the point that is being made here on alternative fuels. So you should have a fuel tax regime which assists us in our effort on greenhouse gases and which does not stop or impede the development of innovative technologies. How should we work to achieve this?

Fuel tax should not be based on energy content; it should be based on carbon emissions. If you had done that you would have internalised the externalities, or the costs, of CO₂. So you would have a range, with at one end biofuels, alternative fuels having very little or no fuel tax, and at the other end the worst fossil fuels would be on the highest level of fuel tax, based on life-cycle analysis. Real reform would change the basis of fuel tax. That would deal with Senator Joyce’s issues and with my issues. It would deal with
rural development, employment and a whole range of things. All you have to do is change your head space: stop thinking about fuel tax based on energy content and look at it in terms of its carbon content.

Secondly, you would need to have a fuel tax system that encouraged the development of alternative technical innovation. One of those innovations is, for example, the electric car. In Australia we have had a real effort to stymie the production of electric cars. The Reva car is still stuck in limbo because no government in the country will license it at the moment. There is the potential to go with small electric cars for commuting in Australian cities.

The government has taken away incentives for renewables in the non-transport sector, using oil for electricity. I cannot believe this. The Greens brought in a sun bill many years ago that would have abandoned the diesel fuel rebate and instead returned that rebate for investment in photovoltaics. Rural, remote and regional areas could have made the shift from diesel generators across to photovoltaics and other renewables. It would have stimulated the renewable industry and it would have meant that the cost of production, the cost of living in those areas, would be significantly less than it is now, because they are having to pay higher and higher diesel fuel prices. Okay, so you have taken the excise off them, but it does not matter; the costs are still ultimately going up. The government could have done something about it. It could have embraced the sun bill. It could have helped in the transition to get the monkey off the back of the rural sector in terms of the ongoing higher costs of diesel and fossil fuel based transport.

We have had many speeches on biofuels. It is clear that this legislation completely undermines the Energy Grants (Credits) Scheme Act 2003 and the Energy Grants (Cleaner Fuels) Scheme Act 2004, and it impedes the development of a sustainable biofuels industry. It stops the promotion of biofuels as an alternative fuel source in Australia. That is an absolute disgrace. There have been endless submissions to the oil inquiry. Numerous people have contacted me about that. What we are obviously seeing is the government extending the number of diesel users not only in the country but also in metropolitan areas and, at the same time, taking away the excise rebate received by rural users of biofuels. It is totally discriminatory and it is undermining the development of a whole new industry sector.

We should be going with that broader industry sector and we should have a total policy. It is no good just having an ethanol policy. It is no good just having a natural gas policy or an LPG policy. We need a fuel policy for Australia which looks at those sectors that do rely on existing oil supplies more heavily than most—and one is the aviation sector. Where there is not an easily replaceable, substitutable fuel, they are the sectors that are going to take the most oil in the future. We have to help other people to move across to alternative sources of fuel to address greenhouse gases.

What should we do? Firstly, we should identify the size of the transport emission reduction task. What are our short-term, medium-term and long-term tasks to 2050 to reduce greenhouse gases in the transport sector? Secondly, we should develop an integrated energy industry employment policy and a road map to get us to those targets. We should see fuel taxes as part of achieving that plan by asking: how do we reduce greenhouse gases in the transport sector and create jobs and industry innovation at the same time? How do we help those people in Australia who are currently dependent on fossil fuels, on petroleum and diesel products, to
get off that dependence and onto alternatives?

When I talk about an alternative fuels policy, the reason I say that it is not just about ethanol or natural gas is that we need the whole mix. We need a strategy for having the whole mix. We need to consider what land area would be needed to grow some energy crops and whether that would threaten food security and food supply in the longer term in a global context. We need to consider whether it would have adverse consequences by driving tropical deforestation to put in palm oil plantations and the like. We need to look at where the opportunities are for biomass development and where the opportunities are for cellulose, for example, to get into the alternative fuels market and so on. There are lots of things that would need to be considered in an alternative fuels policy, within the context of an Australian industry energy employment policy. That is where the government is completely lacking and is letting Australia down.

In conjunction with the fuel tax, what you would need to do would be, first of all, to reduce the impact of the vehicles that you have on the road. That is where you would bring in mandatory minimum fuel efficiency standards and mandatory minimum vehicle emission standards. Then you would set stamp duty on the environmental performance of cars in a formula that looked at both fuel efficiency and emissions. You would promote alternative fuels, through the fuel tax and, as I said, by taxing fuel on the basis of carbon emissions. Then you would do all the things we are trying to do with alternative fuels. You would also remove the perverse incentive to fuel from the fringe benefits tax. You would upgrade government car fleets. As I have indicated previously, you would promote hybrid vehicles. You would also reduce vehicle use overall by investing in public transport and urban planning measures that would get more people off the roads and onto public transport, walkways, bicycle ways and the like. You would get transport off the road and onto rail. You would also work on travel demand reduction. They are the obvious things that we should be doing in this country.

When it comes to vehicle efficiency standards, I have made this point over and over again, and I will continue to make it: China has set much higher vehicle fuel efficiency standards than we have. Theirs are mandatory and ours are only voluntary. The environment considerations in this bill are a total joke. All that participants in the Greenhouse Challenge Plus program have to do is to identify their greenhouse gas emissions, develop action plans for greenhouse gas abatement and report to the government on their actions. They are not required to do anything other than report on what they might do. They are not actually forced to do anything.

This whole thing is a joke. This is where the government lacks any kind of integrated strategy. You have Senator Ian Campbell talking about the need to reduce greenhouse gases, acknowledging the role of transport, and then you have Senator Ian Macdonald saying we have to take off the excise and make it cheaper out there, which effectively means ‘use more oil’. Then we have a trade deficit because we are importing oil, and we are taking away the incentives, promotion and development of innovative alternative fuels. This is madness. You have not got a comprehensive policy objective of taxation. What is your policy objective of taxation in this country, apart from getting revenue to buy votes at election time? That is an obvious strategy. Apart from that, where is it taking the country? The country has stalled. We have no direction in Australia. It is business as usual. In fact, it is a step back to the past and a resource based economy with virtually no manufacturing sector, no cleverness and
no innovation. All that is going overseas, and being driven overseas by this head in the sand approach that the world has not changed and that the industrial age is still with us—and it is not.

Real tax reform, real transport reform and real fuel tax reform would have seen the shift to taxing greenhouse gas emissions. It would have dealt with climate change and it would have dealt with oil depletion. These are the two greatest factors affecting civilisation—not just the Australian economy, but civilisation. We only have 10 to 15 years to deal with them. I put to the government: let us have a discussion about real reform. Let us achieve a comprehensive way of looking at the world, which would mean that we would not have these constant fights over ad hoc measures that contradict one another. That is why I will not be supporting these bills.

Senator JOYCE (Queensland) (5.24 pm)—We have heard some interesting speeches here tonight. I believe in the overall sentiment of the Fuel Tax Bill 2006 and the Fuel Tax (Consequential and Transitional Provisions) Bill 2006, but there are particular areas that I disagree with. I hear the arguments for renewable and photovoltaic energy. Unfortunately, in regional areas we are not going to have photovoltaic tractors. We are not going to have photovoltaic fishing boats or solar driven mining plants. I do not think it will work. We have just finished putting a wheat crop in on the property I own, and I cannot imagine how many solar panels you would need to have driven that planting. So we have to accept the fact that we will have to rely on a hydrocarbon based or a liquid based fuel to drive our industry.

Senator Ian Macdonald brought up some issues. He has clearly put on the record that he has some concerns and that he will be taking up those concerns in the committee. I look forward to an active engagement by Senator Macdonald in getting some direction on some of those issues that he brought up. We should come up with results and amendments that deal with the issues that Senator Macdonald has put on the agenda in this second reading stage.

Senator Boswell gave a very good outline of the benefits of the bills and, all in all, I agree with him. He also brought to our attention one area about which I am particularly concerned. Since everybody else has covered so many aspects of these bills, I will concentrate specifically on this one—that is, the argument about the biodiesel industry, which, whether by an anomaly or for whatever reason, since 2003-04 has been in place and has been developing and which, after the passage of this piece of legislation, will be severely affected. I know that because of the representations the peak industry body has made to my office.

We can sit down and have an argument about semantics—about who knew what when and what was the purpose of it. It is completely irrelevant. The purpose is for us to drive for a renewable biofuel industry through ethanol or biodiesel. That is an objective of the government; it is an objective of the National Party. The passage of this piece of legislation—and I refer particularly to clause 43-5(3)(b)—will inhibit the development of the renewable biofuel industry. There is no transitional arrangement that has been worked out to talk to the people who have made multimillion dollar investments in this part of the industry, to take them from where they are now to a position that is not going to send them bankrupt. There is no discussion of a partial offset to deal with this issue. I understand the argument that people are making: ‘Look, it is excise free. You cannot claim a rebate on something you never paid a tax on.’ But the position is clearly argued—and it is certainly up for debate—that they saw the cleaner fuels grants scheme as a
production grant and something to enhance the development of the industry.

Since that time, by reason of a regulatory instrument, there was the power to change it if that were not the case. There was the capacity to change it and it was not changed. By custom and practice, these people believed that they had an industry that they could develop, and they invested in it—not just small investors but also big investors. We have got Transfield and we have had letters from the ANZ Bank talking about $40 million investments in this sector of the industry. So there is a major concern that this change is immediate and abrupt. Good government, even if it wants a change of direction, brings about a transitionary process so as to bring the least amount of pain that they can to the people involved in the industry.

However, apart from that, I believe that this is an example of a renewable biofuel section of the market which is actually going ahead, where we are achieving our objectives and where we are developing a biorenewable component. There is a range of reasons why this is good. I am going to go through a couple of the reasons. Tonight we heard one of the other speakers mention that he was one of the only senators from regional Australia. Well, I beg to differ. That might have been true in the past, but it is certainly not the case now. I can assure you that I live further from the coast than any other senator in this nation. I have a clear understanding of regional issues. Sitting in front of me is Senator Nash, who I would suggest comes second.

Regional development is a driver of the requirement for a biorenewable fuel industry, because it is an industry that speaks to our regional areas and to the development and broadening of regional economies. The biodiesel industry talks specifically to the smaller regional towns, which are specifically the areas we want to develop. It has the capacity to be the catalyst for developing those smaller regional areas. Biodiesel is biorenewable, so it has an environmental aspect in respect of our capacity to deal with or be recycling our carbon emissions rather than always putting more into the atmosphere.

There is also an issue in that B5, which is five per cent ethanol and 95 per cent diesel, will be deemed to be something that you can claim a rebate on, but that will not be the case for B49, which is 49 per cent biodiesel and 51 per cent diesel. The issue is, of course, that that plays straight into the major oil companies’ hands. It means that for every one part of biodiesel you need 19 parts of diesel. That means that your production plant is going to be moving from regional areas, if the industry is sustained, in order to be proximate to the refining capacity. That is a bad outcome; that means that the small regional towns which have the capacity to develop a biodiesel plant will become an inhibitor on the industry.

The bottom line is that after the passage of this bill, if you are using biodiesel in your tractor, mining plant or fishing trawler, the net result will be that there is no price advantage in buying it. Because the industry is still developing its plants, it is still in a development phase and has to make capital payments to cover that capital overhead, so biodiesel becomes an uncompetitive product. It becomes uncompetitive because the farmer turns up and says, ‘I can get the diesel fuel rebate if I buy this product off the oil company and I can’t if I buy the biodiesel product, so I am going to buy the oil company’s.’ And that will be the end of the biodiesel line.

The biodiesel line relies on the fact that the industry has believed that the position of the government has been to enhance the roll-
out of the industry. The industry have seen what is, by custom and practice and regardless of the semantics, a production grant to help develop the industry. That is what we want to do. That is what we intended to do. We intended to develop a biorenewable fuel industry. And now that we have started down the path of developing one, unless we get some amendments to this bill, we are going to chop it off at the knees.

There is argument and contention about whether Treasury clearly communicated their intentions. Treasury says they did. Others say they did not. It goes round and round in circles and never goes anywhere. But it is clearly on the record that in the past there was the capacity to put forward a regulatory instrument that would have dealt with this issue. There was conjecture that there was the capacity to deal with it via regulatory instrument, but that was not done; and that was deemed by or seemed to most to be an imprimatur that that was the position that would go forward.

The issue, really, is this: we have a bill that I believe in general is a good piece of legislation, and I would want to support it. There are issues within the bill. Senator Macdonald has brought up concerns he has with it, as has Senator Boswell and members on the other side. The issue comes down to whether or not the Senate has the power to bring these amendments. In some areas it has. The issue that goes beyond anything to do with biorenewable fuels is whether the lower house is going to accept the amendments. Do we have a reviewing house that has the ability to ask for amendments, as it is constitutionally asked to? All of us in this chamber have no doubt put a hand on the bible or the Constitution and said we would fulfil our duty. We have the expectation that if amendments are reasonable they will be dealt with.

When the Senate, not one senator in particular, has asked for amendments in the past year—and I refer to the Trade Practices Legislation Amendment Bill (No. 1)—the bill has gone down to the other place, to the House, and they have sat on it. And then they cast aspersions out into the Australian public which suggest what they would like the public to think has happened. I imagine that is what will happen with the legislation we are debating today. That is my conjecture. The Australian Senate will ask for an amendment—that is, the Australian Senate that has a responsibility to the Australian people and that is not owned by anybody or any party will call for an amendment—and when the bill gets down to the other place, the next thing that will come out is that the Senate or one senator in particular has blocked the passage of the whole legislation.

In conveying that sentiment to the Australian public, they are lying. They are lying because the bill will go through. Amendments might be asked for; I will certainly be endeavouring to get amendments. But the issue is the way the system works after that. I hope and implore that the lower house respects the intent of the Senate, and that when a majority is attained in the Senate the lower house takes its views on board. I hope to the core of my being that we do not have a lower house that tries to manipulate the process of the Senate by implying a lie to the Australian people about why a certain piece of legislation has or has not gone through.

So this comes irregardless of your voting intention on this bill; whichever way you are going to do it, everybody in this chamber has a role to play. I imagine that by tonight we will have played it. And by tonight, a piece of legislation—I imagine it will have amendments—will go back down to the lower house. And then we will see whether the lower house has any intention of acting in a constitutional or a conciliatory manner with
its upper house, or whether it has become a case of, ‘We’ll never ever tolerate the Senate ever asking for any change.’ I feel that issue is more important than this piece of legislation itself. I think that actually cuts to the core of the issue.

I have no concerns whatsoever, when people talk about a majority in the upper house. It should not matter, and it does not matter, because senators should be doing their job. I believe in the content and the character of the people here, that they will do their job to the best of their abilities, and they will not keep alternative agendas in the backs of their minds that stop them from doing their jobs in this chamber. They will reflect on the honour that has been given to them to have a position in here. I do not give any credence to ‘having control of the Senate’. You never have control of this Senate; this Senate has its own life, it has its own ethos, and it has a responsibility to the Australian people and the people of their states, way beyond their allegiance to any other group—or that should be the case.

This issue tonight has implications beyond just this piece of legislation. I ask my colleagues opposite to remember the allegiance that they should have to their nation and to their role in this Senate. It should go beyond bloc voting, which is something that completely disenfranchises the people who sent them here. It is going to be an interesting process. If Australia believes in a renewable biofuel industry, if we have, whether it was by mistake or not, created a piece of legislation that actually starts developing it, starts producing outcomes for regional Australia, then what on earth are we doing stymieing it? Why are we not enhancing it? Why are we not rolling it out further? At the very least, if we do not believe that, if we believe we made a mistake for goodness sake, then surely we should be making transitional arrangements to help these people—especially those people in small regional towns, and especially in Western Australia. I do not know why, but it is big issue for Western Australians.

We should be giving them some sort of transitional package to alleviate the financial pain that this will cause them. They did not ask for this. In the law that was before them, they have worked in good faith within the bounds of that law. They have not done anything illegal, they have not broken any rules; they have picked up the legislation and worked with it. At this point in time, we cannot turn around and just say: ‘Without any understanding of the consequences of our actions, we’re going to change this process that we could’ve changed years ago. The financial consequences to you are dire, but we have no care about that.’ I do not agree with that process of doing business, and, in general, I do not think the government does either. It is pretty good, it has done some marvellous work in other packages to assist in this process, and I ask for that with this.

But more important than that is the reflection of how these two chambers operate. The reflection of how the Senate operates, and whether people believe that this Senate has a right to call for amendments in a robust form of debate in the committee stage, where it is supposed to—in the committee stage, in a public chamber, in front of the Australian people so that they can understand exactly how our parliamentary democracy works. That will be a bigger issue than just the essence of this bill alone. This is merely the stage where, later on, we will see how the constitutionalities of these two chambers work.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (5.42 pm)—I thank all senators for their contributions to the debate on the Fuel Tax Bill 2006 and the
Fuel Tax (Consequential and Transitional Provisions) Bill 2006. The Fuel Tax Bill 2006 gives effect to the government’s announcement in its energy white paper Securing Australia’s energy future, of 15 June 2004, that the current array of fuel tax concessions be replaced by a single fuel credit system from 1 July 2006. The Fuel Tax (Consequential and Transitional Provisions) Bill 2006 provides the transitional arrangements to phase in the new system while phasing out the following schemes for which entitlements will cease to exist for fuel sales or deliveries made after 30 June 2006: the Energy Grants Credits Scheme, the Fuel Sales Grant Scheme—and in mentioning the Fuel Sales Grant Scheme, I am delighted to hear of the Labor senators’, particularly senators Webber and Stephens, new-found virtue in relation to Fuel Sales Grant Scheme given that they went to the last election with the policy of repealing the scheme, effective from January 2005, so your new-found virtue is delightful, Senator Stephens—

Senator Stephens—Always virtuous.

Senator COLBECK—I am sure—and the Petroleum Products Freight Subsidy Scheme. These bills combine the means of providing fuel tax relief to businesses and households in one piece of legislation. Changes to implement the new system will be phased in from 1 July 2006, with final changes taking effect from 1 July 2012.

It is intended that from 1 July 2011, these bills will also provide the legislative basis for taxing certain liquefied and compressed gaseous fuels when fuel tax is levied on liquefied petroleum gas, liquefied natural gas and compressed natural gas. Under the fuel tax credit system, all fuel, including petrol consumed off-road for business purposes, will become effectively tax-free over time. This will provide fuel tax relief to a number of businesses for the first time, and will benefit businesses involved in manufacturing, quarrying, construction, primary production, mining or commercial power generation.

The fuel tax credit system reform also expands fuel tax relief for fuel consumed in road transport by allowing partial fuel tax credits for all taxable fuels, including petrol, consumed on-road for all business purposes in registered vehicles with a gross vehicle mass of 4.5 tonnes or more. Presently, fuel tax relief is provided in the form of remissions, refunds and rebates under the Excise Act 1901, the Customs Act 1901 and the Energy Grants Credits Scheme. These schemes have restrictive and complex eligibility criteria and apply to different fuels and fuel uses in different ways. The changes will lower compliance costs, reduce tax on business and remove fuel tax for thousands of businesses and households. When the fuel tax credit system is fully implemented, fuel tax will only be effectively applied to fuel used in private vehicles and for certain other private purposes, to fuel used on-road in light vehicles for business purposes, and to aviation fuels where tax is imposed for cost recovery reasons.

The changes to the system of providing fuel tax relief will allow businesses to claim their fuel credits through their business activity statements in the same way they claim goods and services tax input credits. A separate claiming mechanism will be available to allow householders to claim a fuel tax credit for fuel used in the generation of electricity.

In response to the Senate Economics Legislation Committee report into these bills, it is worth recalling that, as announced in the energy white paper of 2004, the government’s policy is to bring all fuels into the fuel tax system so that, to the greatest extent possible, all fuels and fuel users are treated in a consistent and transparent way and the
fuel tax system is competitively neutral, avoiding instances where taxed fuels compete with untaxed fuels. Consistent with that policy, these bills deliver the fuel tax credit system, which is intended to remove or reduce the incidence of effective fuel tax on business. The government recognises the matters reflected in the committee’s report, including with respect to those industries highlighted in the committee’s recommendations. The government will continue to monitor the effect of fuel tax reform upon business during the transition period, to ensure that there are no unintended consequences or impacts of the policy on industry. In response to Senator Macdonald’s concerns, expressed in the chamber earlier, the government will assess the new claiming arrangements on the fishing industry before the transitional arrangements cease.

I would like to make a couple of comments on the second reading amendment proposed by Senator Stephens on behalf of the opposition. This bill removes the incidence of fuel tax on business inputs in accordance with government policy. The reforms will effectively reduce fuel tax collections from businesses and households by $1.5 billion over the period of 2012 to 2013. The government’s decision not to increase the road user charge will effectively reduce fuel tax on heavy vehicles by a further $1.2 billion over the forward estimates. Business and household use of fuel to generate electricity will be effectively fuel tax free from 1 July 2006. Business and household use of burner fuel such as heating oil and kerosene will be effectively fuel tax free from 1 July 2006. Partial fuel tax credits will apply to all fuels, including petrol, used on-road in heavy vehicles from 1 July 2006, and the existing metropolitan boundaries will be removed. All off-road business use of fuel will become effectively fuel tax free over time. Currently ineligible activities will receive a half credit from 1 July 2008 and a full credit from 1 July 2012.

Although the opposition amendment may be well intentioned, it is misdirected. The excise arrangements for biofuels are not determined by this bill. Excise and customs duty on fuel ethanol and biodiesel is imposed by excise and customs legislation; the effective fuel tax status is then delivered by offsets through either the Energy Grants (Cleaner Fuels) Scheme Act 2004 or contracts administered by the department of industry. I repeat and emphasise that this bill does not change the effective tax status of the import or manufacture of fuel ethanol or biodiesel. The whole purpose of fuel tax reform is to lead to a system where all fuels are brought into the fuel tax system so that, to the greatest extent possible, all fuels and fuel users are treated in a consistent and transparent way and the fuel tax system is competitively neutral, avoiding instances where taxed fuels compete with untaxed fuels.

The government has clearly set out a long-term framework to allow biofuels to establish their credentials in the marketplace. The Prime Minister announced the industry biofuels action plan on 22 December 2005. He also noted that industry projections show that industry expects not only to meet but to exceed the government’s biofuels target of 350 megalitres by 2010. The Australian government will monitor and review progress towards these targets on a six-monthly basis, and the industry players have committed to annually update their company action plans. In these circumstances the government considers the opposition amendment is unnecessary, and as such the government does not support it. In conclusion, I suggest that the measures proposed in these bills contain positive improvements to the system of providing fuel tax relief. They will modernise and simplify the fuel tax system. For these
reasons and the reasons outlined above, I commend the bills to the chamber.

The ACTING DEPUTY PRESIDENT (Senator Murray)—The chamber has before it a second reading amendment moved by Senator Stephens, circulated on sheet 4995. The question before the Senate is that the amendment be agreed to.

The Senate divided. [5.56 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes…………… 32
Noes…………… 33
Majority……… 1

AYES

Allison, L.F. Bartlett, A.J.J.
Brown, B.J. Brown, C.L.
Campbell, G. * Crossin, P.M.
Evans, C.V. Faulkner, J.P.
Fieking, S. Forshaw, M.G.
Hogg, J.J. Hurley, A.
Kirk, L. Ludwig, J.W.
Lundy, K.A. Marshall, G.
McEwen, A. McLucas, J.E.
Milne, C. Moore, C.
Murray, A.J.M. Nettle, K.
O’Brien, K.W.K. Polley, H.
Ray, R.F. Siewert, R.
Stephens, U. Sterle, G.
Stott Despoja, N. Webber, R.
Wong, P. Wortley, D.

NOES

Abetz, E. Adams, J.
Barnett, G. Bernardi, C.
Boswell, R.L.D. Brandis, G.H.
Calvert, P.H. Chapman, H.G.P.
Colbeck, R. Coonan, H.L.
Eggleston, A. * Ellison, C.M.
Ferguson, A.B. Ferris, J.M.
Fierravanti-Wells, C. Fifield, M.P.
Heffernan, W. Humphries, G.
Johnston, D. Joyce, B.
Lightfoot, P.R. Macdonald, I.
Mason, B.J. McGauran, J.J.J.
Minchin, N.H. Nash, F.
Parry, S. Patterson, K.C.
Payne, M.A. Santoro, S.
Scullion, N.G. Troeth, J.M.
Watson, J.O.W. Watson, M.A.

PAIRS

Bishop, T.M. Macdonald, J.A.L.
Carr, K.J. Campbell, I.G.
Conroy, S.M. Kemp, C.R.
Hutchins, S.P. Trood, R.
Sherry, N.J. Ronaldson, M.

* denotes teller

Question negatived.

Original question agreed to.

Bills read a second time.

In Committee

FUEL TAX BILL 2006

Bill—by leave—taken as a whole.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (6.00 pm)—by leave—I move Democrat amendments (1), (2) and (3) on sheet 4799 revised 1:

(1) Clause 43-5, page 16 (lines 31 and 32), omit paragraph (3)(b).

(2) Clause 43-5, page 17 (lines 1 to 3), omit paragraphs (3)(c) and (d), substitute:

(c) for a taxable fuel other than biodiesel used off-road, a grant under the Energy Grants (Cleaner Fuels) Scheme Act 2004;

(d) for biodiesel used off-road, fifty percent of any grant under the Energy Grants (Cleaner Fuels) Scheme Act 2004;

(e) a benefit under the Product Stewardship (Oil) Act 2000.

(3) Clause 110-5, page 51 (after line 16), after the definition of Australia insert:

biodiesel used off-road means biodiesel that would have been entitled to an off-road credit in respect of the fuel, assuming:

(a) that you disregarded subsection 51(2) and sections 52 and 55A of the Energy Grants (Credits) Scheme Act 2003; and
that references in Part 4 of that Act to:

(i) “purchase or import into Australia” were instead references to “acquire or manufacture in, or import into, Australia”; and

(ii) “off-road diesel fuel” were instead a reference to “off-road biodiesel fuel”.

The purpose of these amendments is to give biofuels a chance of survival. What this bill does, as I said in my speech on the second reading, is increase the cost of biodiesel comparative to diesel. I will hopefully illustrate this by talking about some figures. I realise this is difficult for people to follow in a debate; however, the Democrats have circulated a number of tables, as did the many submissions to the inquiry which pointed out that as a result of this legislation, depending on a whole range of factors, biodiesel would be severely disadvantaged. So I will use figures to illustrate why it is I am moving these amendments and the effect of them in dollar terms.

For instance, for off-road use there is a biodiesel which is known as B49—a 49 per cent biodiesel, 51 per cent diesel mix. Assuming that the diesel cost was $1.50 a litre and the biodiesel cost was $1.20—and they are roughly today’s prices as I understand it, give or take a few cents—the cost from 1 July 2006 would be 85c a litre for the B49 blend and 97.8c a litre for diesel. So, at the present time, the biodiesel blend has an advantage on the market. In 2007, that changes. Making the same assumptions of cost of $1.50 per litre for diesel and $1.20 for biodiesel, that then shifts to being a cost of $1.03 per litre for the B49 blend compared with the cost of diesel remaining the same—that is, 97.8c per litre. That gives biodiesel a disadvantage because it has now become more expensive than diesel.

My amendment would change that and would mean that, instead of biodiesel costing $1.03 per litre in 2007, the cost would be 85c a litre and it would maintain its comparative advantage. It is a very small advantage, and, of course, it differs depending on the gate price of both diesel and biodiesel but, generally speaking, on an average cost such as I have given by way of example that would be the outcome. So my aim is to say, ‘Let’s look at the impact of these changes and see what that is.’

Time and time again, in submissions and tables that were submitted, with a whole range of assumptions, it was demonstrated to the committee that biodiesel would become more expensive as a result of these changes. One of the reasons for that is that the standard for diesel has been set at 100 per cent diesel or up to five per cent biodiesel, and that gives that very low percentage blend an advantage over all other blends of biodiesel. So, whether it is 49 per cent, 100 per cent or 20 per cent, they are all disadvantaged because they are not now of that standard which receives the benefit.

I just gave the example for off-road use. For on-road use, the figures are slightly different. In 2006, the cost of a B20 blend for on-road use—and I gather this is a fairly typical blend which is made available for trucking—would cost 97.6c a litre, compared with $1.028 a litre for diesel. So biodiesel has the advantage. In 2007, for on-road use that cost for B20 shifts to $1.023 a litre and diesel remains at $1.028 a litre. With our amendment, that cost would be adjusted so that B20 would remain at 98c a litre, giving biodiesel the ongoing slight advantage over diesel.

If this amendment is not agreed to then, as has been said in my speech in the second reading debate and by Senator Joyce, Senator Milne and others in this place, what we are
looking at is the government’s supposed support for biodiesel disappearing out of the door. We were told by all of the biofuel industry that their industry was likely to lose 99 per cent of its market. They would become non-viable under this legislation. It is complicated and very difficult to work out what these figures actually mean. As I said in my speech in the second reading debate, even the tax office was not able to tell the industry up to a week ahead of our inquiry what the actual situation was. I would have to be honest here and say that we think we know what we are talking about with the figures that I am expressing, the tables that we have and what we have looked at in terms of our amendment. But we are not absolutely sure, because Treasury is not able to confirm these figures one way or the other.

I ask the minister at this point in time, with regard to the tables that were submitted with the submissions that came in to our inquiry: were they wrong; if they were wrong, in what way were they wrong; and how it is that the industry so misunderstood the intention of this bill? Or is it the intention of this bill that biodiesel will be disadvantaged? After all that the Prime Minister has said about the need for a biofuel industry in this country and a 350-megalitre target—which is a paltry target, as I have already indicated; other countries have gone way beyond this amount—is this really the intention of the bill? Are we talking here about disadvantaging an industry which the Prime Minister said was important?

I know that it is important. I think that other people on the crossbench understand it to be important. But what does the government think? Is it not important now? Are we happy for the industry to just collapse? Do we not care about clean air? Do we not care about the fuel which might be spilled in the Great Barrier Reef that would be petrofuel and therefore damaging to the environment when it could have been biodiesel, which breaks down in such environments and would not be harmful in the way that petrodiesel would be? Do we not care about that? Do we not care that, slowly, mining companies have been taking up 100 per cent biodiesel and using it in their underground mines because it is much safer for the mine workers? Does neither the government nor the opposition, I would say, care that that is the situation?

I ask the minister: can you disabuse this end of the chamber? Are we wrong in saying that petrodiesel will have an advantage, if not next year or even this year—from 1 July in certain circumstances for on- or off-road B5, B20 and B100? Can you assure this place that next year or the year after or this year, from 1 July, biodiesel is not going to be disadvantaged vis-a-vis diesel? Obviously, it is going to be disadvantaged in terms of the benefits that flow from rebates and so on, but what is its position relative to diesel? That is I think what we need to know. Minister, I would be obliged if you could answer that question.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (6.11 pm)—On your first question, out until 2010 biodiesel does enjoy an advantage over petrodiesel, to use that term. The differences between the prices that you have mentioned in the tables that you have from 2006 and 2007 are because at this point in time biodiesel—B49 in particular but also B20—is enjoying an unintended subsidy from the tax system. This is in relation to the B49 off-road example, where there is excise being claimed off. It comes back again to the definition of ‘diesel’ which you mentioned before.

You mentioned in your presentation a five per cent threshold. There is no percentage mentioned in the diesel standard. It relates to
the description of diesel, although five per cent is probably about the mark of where the threshold and impact on the description of diesel comes in. Again, this comes back to one of the key arguments in relation to this whole piece of legislation and its impacts. There has been an unintended subsidy, through the development of B49, that that particular product has enjoyed because of the capacity to claim a tax rebate for that 49 per cent of diesel where excise has not been paid.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (6.13 pm)—I would ask the minister to address my question. I understand the point that was made, although it is my understanding that it was indeed intended. This subsidy, as you describe it, was intended because we wanted to get the biofuels industry off the ground. At the present time it is nowhere in this country. It is just starting to develop. We have the possibility of even moving to about one million litres of biofuel production in this country. That is still a very small amount compared to what happens in other countries and the great potential in this country.

I ask the minister to focus on one question. In terms of the cost and the impact of this legislation, from 1 July this year and from 1 July next year and maybe the year after that, can you assure the Senate, given all of the givens that we have already seen in terms of the price and the effects of the various mechanisms in this bill, that biodiesel will not become more expensive than diesel in all of those permutations? If there is some that will not become more expensive, can you tell the chamber that? Can you tell us which mix of assumptions—whether it is on or off road; whether it is B49 or B20 or something else—will continue to have the current advantage that it has in terms of price over diesel?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (6.15 pm)—As I said, there is the current capacity to claim the rebate on, for example, B49. That varies, depending on the grade of diesel that we are talking about, whether it is B5, B10, B20 or B49. If we take B100, B20 and B49, in terms of excise and grants, I can tell you that out to 2010 biodiesel will enjoy an advantage over fossil diesel. In terms of overall price, I cannot make any commitment in relation to that any more than you can, because, Senator Allison, as you quite rightly said in your speech in the second reading debate, the end price of those two products is determined by their inputs. But in terms of grants, taxes or things of that nature, out to 2010, biodiesel in B100, B20 or B49 form will enjoy a tax advantage over fossil diesel.

Senator JOYCE (Queensland) (6.16 pm)—I hear the sentiments that this was an unintended consequence. It reminds me of the analogy: how many people have unintended children, but, once you have them, they are there and you love them and deal with them. We have an industry and, whether people think it is unintended or not—and we could have the argument all night on the semantics of the case—it is the case that this industry exists and that people have invested in this industry. It is the case that it could have been stopped with a regulatory instrument; it is the case that it was not stopped with a regulatory instrument, so people are under the strong understanding that it is there for the long haul.

I also hear the statement about the advantage, but the main use of this biodiesel is in farming, forestry, fishing and mining. The diesel that they now buy from the major oil companies is completely on par with that, in that they will both be virtually tax-free. That is not a stimulus package for a biorenewable fuel industry. That is basically saying that,
with your payment of capital, you have to
compete with an established market that is
immensely bigger than yours.

Looking to the forgone revenue—and this
comes from the industry—the current bio-
diesel industry is very much in its infancy
and it is currently producing 70 million litres
per year. Just thinking about 70 million litres
per year, if the cost is 38c a litre—the unin-
tended double-dipping, as I have said; and I
disagree and think it is a production sub-
sidy—that is about $26,600,000. We are talk-
ing about an amount of money that is hardly
huge. We will sink an industry for the sake of
$26,600,000. In the scope of a trillion dollar
economy, this is hardly a reasonable outcome
for a government with a surplus of about $13
billion. That is hardly going to break the
bank, is it?

The cost that is forgone will be returned to
the Australian government and people ten-
fold by the economic growth and security in
the towns from which this industry will be
drawn from. They are the small regional
towns that we have always tried to engender
the growth of. We have always sat back and
thought: what is a mechanism that can actu-
ally engender some growth out here? What
can we possibly do that is unique to this area
and can engender growth in this area? We
have developed one by mistake—biodiesel—
are now we are going to stop it. Environment
is one of the biggest winners. This is a meas-
ure that can actually deal with the issues of
climate, increasing greenhouse emissions
and the uncertainty about our future in the
post global warming situation.

The other thing is that, when we go back
to the five per cent biodiesel, it plays directly
into the oil companies’ hands. Biodiesel has
an extremely good correlation in its blending
capacity. Dare I say that it is even better than
ethanol, in that there is no differentiation. On
100 per cent biodiesel you can run an effi-
cient engine. That is something that has an
incredible outcome as far as greenhouse is-
ues go. As these people put it:

The crux of the situation is that the government
covertly, through the drafting of this very compli-
cated and misleading legislation, has taken away
the incentive for biodiesel. It will become uneco-
nomic for the large diesel-use industries and will
consequently force the production to large metropo-
lar facilities in our industrial areas, which
will enhance a centralist policy to government.

This has come to me from National Party
people who obviously believe in the concept
and the enhancement of decentralisation.

They continue:
The legislation is going to penalise small-time
biodiesel and ethanol producers by favouring
producers who supply standard fuels—that is,
small blends for big oil against groups with com-
munities looking to set up their own production
and distribution. This proposed legislation is so
destructive it is unbelievable that it has not re-
ceived more attention. But it is so complex and
hard to decipher that I understand and sympathise
with these people who are trying to work through
it.

And that has been the case. I do not know
how many times we have had people going
back and forth, in and out of offices, trying
to get to the crux of what is actually going to
go on, but I think we have got to it now.

I ask the minister: does the government
have any envisaged plan to deal with this and
to say, ‘Okay, we’ve made a mistake. The
mistake has been there for three years. Now
we are going to put in place an incentive
plan’—apart from what we are dealing with
now—‘that is actually going to deal with this
issue, that is going to keep this industry go-
ing’? Are we going to have another grant or
another subsidy—call it what you want; call
it a pink labrador if you like—or something
that keeps that industry and the benefits of
the development of this industry going? Is
there anything in the pipeline in that regard?
Senator MILNE (Tasmania) (6.22 pm)—I will not keep the committee but I rise to support the amendments proposed by Senator Allison. Like other senators in this chamber, I have had extensive correspondence from people involved in the alternative fuels—from the biofuels industry, in particular. They cannot believe what the government is doing. What they are saying is that the effect of the government’s action is to strengthen the hand of the entrenched big corporate players in the fuel industry to the absolute detriment of small business entrepreneurs. They point out that, if this goes ahead, people who have invested in these new technologies will lose confidence in government commitments and it will encourage them to locate their technology and other plans offshore.

That is exactly what has happened by the government abandoning the mandatory renewable energy target. We are seeing innovative technologies that deal with a whole range of issues, create jobs in rural Australia and deal with environmental issues all going offshore. There is simply no justification for what the government are doing. It is clear, by the government’s failure to be able to answer Senator Allison directly, that they either do not want to say it or they do not understand it. But what they are effectively doing is destroying this new industry. They are destroying this biodiesel segment of the fuel market, and that is disgraceful. It is a case of the Prime Minister saying one thing and doing another—which of course we are accustomed to seeing happen in this place. This is a big end of town, petrodiesel, petro-initiative at the expense of alternative fuels, and I will be supporting Senator Allison in putting that right.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (6.24 pm)—I will, firstly, clarify one point in relation to comments I made to Senator Allison in relation to the effective taxation treatment of biodiesel. The figures that I gave you, Senator Allison, were for on-road use in relation to the advantage in respect of support.

Senator Joyce, I understand your perspective in relation to the comments that you made in relation to the original intended purpose; however, it is quite clear that it never was intended as a stimulus package. There is no question about that. That is quite clear.

Senator Allison—What was it intended for?

Senator COLBECK—If you go back to the explanatory memorandum, you will see that the Energy Grants (Cleaner Fuels) Scheme Bill 2004 provided for a grant to:

... offset the excise and customs duty payable on biodiesel from 18 September 2003 and continue the current effective excise rate of zero for 100% biodiesel until 30 June 2008.

That was from the explanatory memorandum to the bill.

In relation to another comment you made, Senator Joyce, I note that there are some in the industry who might believe that this is something that has been snuck up on them, but there was a discussion paper put out on fuel tax credit reform in May 2005. So this information has been out there for some time. While there may have been some issues in relation to the specifics, particularly in relation to blends, I do not think that it is correct to say that it is something that has been snuck up on the industry. It is something that has been there for some considerable period of time.

In relation to your question about a specific plan from the government, I refer you to the biodiesel action plan that the government has released. It is quite evident to me that there remains within the government ranks considerable interest in this as an industry and as a future industry. I think that is some-
thing that you might consider as part of this process.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (6.27 pm)—Can the parliamentary secretary indicate if any biodiesel manufacturers have said to the government that this is okay and their industry will survive, or benefit or in some way be able to continue finding markets for their product? Given that there was not a single biofuel producer able to say that to the committee, I wonder whether a group that did not bother to make submissions told the minister that this was the case.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (6.27 pm)—I am not aware of anything and nobody has spoken directly to me. So I cannot give you any indication one way or the other with respect to that.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (6.27 pm)—I ask the parliamentary secretary whether he has looked at the submissions and read them and whether he has looked at the report of the committee inquiring into this bill.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (6.28 pm)—Yes, I have read the report. I have had discussions within the industry and I have read quite a few of the submissions. I have also availed myself of quite considerable and lengthy briefings from Treasury so that I could get a reasonable understanding of what is intended by the legislation and also the other peripherals that work around the legislation.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (6.28 pm)—Parliamentary Secretary. I think in answer to my question, you said—to paraphrase it—that there would be no disadvantage to biodiesel producers until 2010. We understand that it is 2111 when the excise starts to kick in effect, but is it not the case that the Energy Grants (Credits) Scheme also reduces from 2007 to the point where the advantage to biodiesel starts to diminish after next year? Assuming that the gate price was $1.25 for biodiesel, which is one of the examples that was given to the committee in the tables provided, and the comparative gate price of diesel was $1.32, what happens under your legislation is that diesel gets a fuel tax credit of, effectively, 18c a litre—a 38c excise credit minus 20c for the road user charge—so the final price of diesel on 1 July would be $1.14.

Sitting suspended from 6.30 pm to 7.30 pm

Senator ALLISON—I think I was midway through asking a question of the minister on the figures which, as I have said many times, are very complex and I understand the difficulty in understanding them. At the present time, diesel with a gate price of, say, $1.32—which I gather might not be today’s price but has been the price in recent times—from 1 July will enjoy a fuel tax credit of 38c less the 20c road user charge. That would result in a final price of $1.13. This is for on-road use of diesel. If we then talk about biodiesel by comparison, on 1 July with a gate price which I also understand to be fairly typical of $1.25, it will have a fuel tax credit of zero because the cleaner fuel grant has offset the fuel tax credit. It also gets an Energy Grants (Credits) Scheme rebate of 14.8c a litre. Can the minister confirm that to begin with? Is that scenario correct?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.32 pm)—I understand that to be so.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (7.32 pm)—Okay.
Is it also the case that in the subsequent year, in 2007, that the Energy Grants (Credits) Scheme rebate reduces from 14.8c a litre to 11c a litre? In the following year it reduces to 74c a litre; in the one after that to 37c a litre; and in the year after that—that is, by 2010—it is zero. Can the minister confirm that this is correct?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.32 pm)—Not 74c but 7.4c—

Senator ALLISON (Victoria—Leader of the Australian Democrats) (7.32 pm)—Yes, I beg your pardon, 7.4c.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.32 pm)—and 3.7c. Those are the figures that I have.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (7.32 pm)—The minister said that there is no disadvantage for biodiesel before 2010 under this measure. But is it not the case that, given those figures that you have just confirmed, two years down the track—not four years down the track—there will be a disadvantage to biodiesel in that example that I have provided?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.33 pm)—No, I would not concede that at all. In fact, there remains an advantage to biodiesel because the energy grant does not apply to fossil diesel. So while the advantage may be reducing, the advantage remains; but, going back to the point that I have made a couple of times already, that impact has nothing to do with, nor is determined by, this piece of legislation.

Senator JOYCE (Queensland) (7.33 pm)—I am just trying to clarify something. If this gets passage, afterwards, if it was B49, for instance, you will get a grant for the biodiesel component—the component made out of tallow or canola or whatever. For every litre of that you get a production grant but for every litre of ordinary diesel you do not get a grant. So what will be the situation after this? Will you be getting 38c a litre for every litre of the 49 per cent of the biodiesel? Am I right there?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.34 pm)—I am not sure that I understand exactly what you are after, Senator Joyce, but to produce biodiesel would attract an excise of 38.14c. The cleaner fuels grant would attract a rebate of 38.14c, which would net that out. Diesel does not attract anything in its production. It has an excise levied on it and, according to a range of programs, that excise is rebated depending on its use, whether for on-road or off-road or marine use.

Senator JOYCE (Queensland) (7.35 pm)—For the biodiesel, where it is 49 per cent organic and 51 per cent hydrocarbonate, your production grant now is for the litre mixed, that is 38.14c for the litre mixed. Is that the case now?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.36 pm)—No. It goes back to the definition of diesel and
the standard for diesel. The description of diesel and the standard have a range of parameters; I am not fully aware of what all of those are, but there is a standard for diesel. My understanding is that B5 fits within that standard. The producer of the biodiesel would receive a grant for the production of the biodiesel. It would then be blended with the mineral diesel and, because it fits the definition of diesel under the standard, the full volume of the final product would attract an excise rebate according to its use. If it was used off road it would attract the full diesel fuel rebate for off-road use; if it was used on road it would attract the full diesel fuel rebate less the road user charge.

Senator JOYCE (Queensland) (7.38 pm)—So afterwards, would the following be the case? Let us give it a number so it paints a picture for us. Let us talk about 100 litres of diesel. Five litres of that will collect the production grant. That is mixed with 95 litres of mineral diesel, which obviously will not have collected the grant. So you have a production grant on the five litres. When they sell that mixed product are they still going to be able to claim the full tax rebate?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.39 pm)—Yes, that is correct.

Senator JOYCE (Queensland) (7.39 pm)—Therefore, even after this case—if it was an anomaly before—they are still getting a form of double dipping?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.39 pm)—In a pure sense you might like to put it that way, but it conforms with the definition or the standard for diesel. That is the criteria under which this is recognised. There is not a percentage mentioned in the standard. It is determined on the characteristics of the product within the standard.

Senator JOYCE (Queensland) (7.40 pm)—The point I am getting at—and everybody is obviously flummoxed as to where on earth I am heading—is this: the real issue is the terminology, that is, what you call standard diesel. Standard diesel is a completely interlocking product—it does exactly the same whether it is five per cent mineral diesel or 100 per cent organic diesel. You do not have to change any of the components of the engine. If we were to say that standard diesel could be up to 49 per cent organic diesel then, following the rule of what is happening with five per cent organic diesel, we would be back in the exact situation which we are now legislating against. The issue is just what has determined the standard. I suggest there has been some strong lobbying by the major oil companies to determine what that standard is. In essence, they are still getting a form of double dipping.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.41 pm)—No, Senator Joyce, that is not correct. The definition of diesel goes back to the Fuel Quality Standards Act 2000. To claim that there might have been some particular arrangements or lobbying to deal with this is not reasonable and fair seeing as that act is nearly six years old. It is an Australian standard for diesel that is described as part of that act. If you look at, for example, B20 as a blended fuel, there is not a standard to describe that anywhere in the world. We are talking about a recognised legislated standard. It is not in fact the fuel companies that are double dipping, because they are not producing the biodiesel; I think there is an opportunity, again, for the biofuels industry to take advantage of that margin that might exist under the standard.
Senator STEPHENS (New South Wales) (7.42 pm)—On the same matter: Parliamentary Secretary, are you saying that the price of biodiesel and diesel will be set by the market and what will change are the margins on biodiesel, say, B5, B10 or B20 levels? Will they all have an advantage over diesel after this legislation comes in? Is that the point you are making?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.42 pm)—No, that is not the point I am making. I am saying that there is a certain proportion or margin of biodiesel in the quality standard for diesel fuel below which the diesel as a product will retain the characteristics of diesel under the standard. About five per cent biodiesel is the figure being used, under which the fuel would still remain within the standard for diesel. The standard is what is being used as the descriptor under the act. There is, I suppose, a capacity for a fuel of up to five per cent biodiesel to retain both the advantage of the cleaner fuel grants scheme but also be able to claim a 100 per cent diesel fuel rebate with the product being recognised as diesel. That avoids the situation of having to have calculations for very small percentages or quantities of biodiesel within the diesel mix.

Senator STEPHENS (New South Wales) (7.44 pm)—Where does that leave B10 and B20 blends?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.44 pm)—As I have said to Senator Joyce, there are no percentages in the Fuel Quality Standards Act. The product that is sold as diesel needs to meet the standards described within the act. Five per cent is a figure that is being used as about the place where that volume of biodiesel blended with mineral diesel still meets the standard for diesel under the Fuel Quality Standards Act 2000. If you were to go to a B10 blend or a B20 blend, those products would not meet that standard.

Senator STEPHENS (New South Wales) (7.45 pm)—Is the parliamentary secretary aware that Gull are actually marketing a B20 blend which they claim does meet the standard?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.45 pm)—No, I am not aware of that. The advice that I have had is that it does not and that there is not a standard anywhere internationally for a B20 blend. That is my advice.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (7.45 pm)—I seek leave to table a table which I was referring to earlier. I would like to get the parliamentary secretary’s advice on this. It shows the effects of this legislation on on-road biodiesel.

Leave granted.

Senator ALLISON—While we are waiting for the parliamentary secretary to look at that table, I wonder whether he can advise on what impact he believes this legislation will have on the oil recycling industry.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.46 pm)—I am aware of some concerns within the oil recycling industry about this legislation. I personally have not had any conversations with representatives, although I do know that some of my colleagues have. I do not have any specific advice that I can give you in relation to that.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (7.47 pm)—I ask the parliamentary secretary how satisfactory that is. He has no advice as to the impact of this legislation on waste oil recyclers. As I said in my speech in the second reading de-
bate, they now collect 200 million litres of waste oil around the country, often in the remotest parts of Australia, from mining companies and farms across the board. This has increased as a result of the product stewardship for oil system, which has allowed waste oil recyclers grants for setting up collection sites, with stainless steel drums, as I understand. They made a very strong representation to the committee, saying that this would seriously diminish their chance of being able to market either the cleaned up or the re-refined oil. Surely the parliamentary secretary has an obligation to investigate those concerns and to give the Senate some answer as to whether they are warranted or not and whether we should be worried about them. If the parliamentary secretary did not consult with the waste oil sector, perhaps he can get some advice as to who did and what the results of that discussion might have been.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.48 pm)—The advice that I have is as follows. Waste oil recyclers make fuel and accordingly have been licensed as excise manufacturers since the late 1990s. Their principal output is about 200 million litres a year of burner fuel, used to heat greenhouses, kilns and the like. This is clearly liquid fuel capable of being used in an internal combustion system, so they need to stay within the excise system, in accordance with the government’s fuel tax policy decisions, as announced by the Prime Minister and the Treasurer at various times. Similarly, for the purpose of users of their products receiving relief from the incidence of excise, the products should be treated for the fuel tax credits in the same manner as competing conventional products. Users of recycled products for burner fuel uses will be eligible for the two-year transitional arrangements where they qualify. Not to do so would be inconsistent with the Treasurer’s announcement of 16 June 2004 that the government would introduce a new business credit system. This system will replace all existing rebates and subsidies.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (7.50 pm)—With respect, I think we have all read that. It does not seem to satisfy the waste oil producers, who, as you would understand, need to travel long distances to collect this oil. Their margins are very narrow. The rate at which they can sell the re-refined or cleaned-up oil is at the present time only slightly cheaper than, as you call it, conventional petrodiesel. What is to stop what they say will happen—that is, because diesel is effectively 18c a litre cheaper than it was, what is to stop greenhouses and other users from proceeding with diesel instead of recycled waste oil?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.51 pm)—I think the key point there is that they retain access to the transitional arrangements. The government has said that it will be monitoring the effect of those transitional arrangements over that two-year period.

Senator JOYCE (Queensland) (7.51 pm)—What we have established is that, if there was double dipping before, then there will still be double dipping afterwards—that is, if we want to call it double dipping. It was called the production grant. We have already confirmed that, because even the people in this room are referring to it as the production grant. If there was double dipping before, there will be double dipping afterwards. You are only allowed to have double dipping afterwards if five per cent of your fuel is a bio-renewable component and the other 95 per cent is mineral based. So what was there before will be there afterwards.
We have it thrown up by Treasury that it is going to cost $1½ billion. If all the biodiesel that can be produced—and I think there is a limit on how much can be produced—is to be consumed in B5, or five per cent biodiesel, that means that the scenario of this huge loss from B49 will still be there, only this time it will be covered up because it will be under the standard diesel. There is the same potential loss either way. What was there before will be there afterwards, only in a smaller portion. But, if it happens in the larger total amount, the net result is the same. All that is really going to change is who is getting the benefit of this.

I would like to ask about a second issue because I am curious—and I understand if you take this on notice as I appreciate how difficult this issue is. How much biodiesel is currently being produced? I have been told 70 million litres, someone has said 40 million and someone else has said 10 million. If it is 10 million or 40 million litres at 38c a litre, we are really only looking at around a $16 million loss to the government. It is hardly quantum mechanics.

**Senator JOYCE** (Queensland) (7.54 pm)—One of the major considerations in the preamble to this bill came from the Treasury department, which said what a huge cost this will be if we do not close the loophole—the production grant—because it was there to stimulate the biorenewable fuel industry, which it is doing. Seeing as we have the advisers sitting in the chamber, I ask: how did they make this decision if they do not actually know how much biodiesel is being produced?

**Senator COLBECK** (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.55 pm)—It is not so much a matter of that; it is a matter of removing an unintended consequence of the existing legislation that is being exploited by the industry. At the moment there is the capacity to claim a tax credit where tax has not been paid. It is a matter of closing that loophole, not determining a return from what the proposal might be.

**Senator ALLISON** (Victoria—Leader of the Australian Democrats) (7.55 pm)—The parliamentary secretary has now had a few minutes to presumably get some advice from his advisers on the table that I tabled. Could he look at that table. I asked him about the situation for biodiesel for on-road use, which is in the third and fourth columns of the table, and described the reducing Energy Grants (Credits) Scheme rebate. The minister confirmed that the rebate reduces to zero by 2010 and by the amounts I quoted, but he disputed the final price in those years for biodiesel on road. Minister, can you indicate whether that is correct, having seen this, and indicate where we have gone wrong in calculating those figures?

**Senator COLBECK** (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.56 pm)—That is not exactly what I said. I said that I...
could not predict what the prices might be for either of the products in that period, because I cannot predict what the input costs are going to be for either of those products. If you want to make a direct comparison based on a baseline figure that might be the number today, that is a different matter. But there are differentials in a whole range of inputs, whether it be the cost of oil, whether it be the cost of grain or whether it be the cost of production of biodiesel or the cost of production of diesel—they are all variables which, if you have a crystal ball better than mine, you might be able to see. That was the point that I was making. I was not questioning a baseline figure as such. I was saying that the differentials between the inputs obviously vary. They have varied considerably over the last three or four years, given the base price of oil, to start with, on one side of the equation. Although I have made some inquiries I have not actually had the information passed back to me yet on the cost of inputs for biodiesel, say, through the cost of grain. I think we are talking at slightly cross-purposes.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (7.58 pm)—I do understand that. There are some assumptions made in the years out because, it is true, we do not know what the gate price is. The assumption is that the gate price for biodiesel will be relative to diesel. That may produce some inaccuracies and you may have a better idea than I do about the likely relativities of the increase in biodiesel and diesel over the coming years. Nonetheless, if we can agree to assume that the gate price remains the same—and I agree that is unlikely, but we are interested in the relativities, not in the actual price—and if we can agree that those assumptions can be used to look at the question of whether biodiesel becomes more expensive than diesel, can you confirm that those figures are correct?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (7.59 pm)—I cannot agree to the fact that the relativities may work out through time. I say that for this reason: if you go to the figures for on-road use of diesel, for example, in July 2000 it was 64c, in September 2003 it was 67c, in June 2004 it was 75c and in July 2006 it was $1.13. I do not see that the relativities can in fact be moved out over time. It also ignores the fact that there may be advances—for example, in the critical mass or volumes of biodiesel being produced or with new plants and equipment coming online—that might reduce the production costs. As far as I am aware, there are new plants being produced. To compare that with the progression for biodiesel, if you look at the July 2000 price threshold of biodiesel before GST, you will see it is 64c. I note that it is the same price as diesel. In September 2003 it was 85c, in June 2004 it was 97c and in July 2006 it was $1.28. So the progressions are different. I would not accept that you can extrapolate the progressions in the manner that I think you are looking to in your examples.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (8.01 pm)—One of our problems in understanding what the impact of this legislation will be is that there was no modelling offered to assist us in that respect. We did ask Treasury when they appeared before us in the committee inquiry and they clearly stated that this was a policy decision—therefore a decision of ministers, presumably—and that no modelling had been done. All we can do is take the currently best advice we have in terms of what the price is for diesel and biodiesel now and then extrapolate that over the next few years. There are some givens: the amount of the rebate and the energy credit scheme rebate. We know that the fuel tax credit is zero for biodiesel and 18c a litre for diesel. And we
roughly know, as I said, the gate price at the present time. Why was no modelling done so that we could better understand what the impact is likely to be? You have just produced two tables that show the trends, and that has at least given us some clue, although I would warn against going back to 1985, given that we have had a huge peak in oil.

Can the minister also comment on what we were told during the hearing by people who made submissions that effectively biodiesel will continue to track oil because it is now a globalised commodity. The feedstocks are pretty much the same around the world in terms of price and so is the product. Just like oil, it is likely that biodiesel is increasing as a share of the total market—it is hardly even on the Richter scale here in Australia but in other countries that is certainly the case. I think it is reasonable for us to have assumed that the prices will not get too disparate over the next five or six years. Why did you conclude otherwise—that this was not possible to model—if in fact you did? Why was there not a range of options modelled so that we would have some idea of the impact under various scenarios?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.04 pm)—I think we need to go back to the initial premise, as I mentioned to Senator Joyce a moment ago. The basis for this legislation was not about impact on the biofuel industry; it was about remedying a loophole that existed that allowed companies to claim an excise rebate when excise has not been paid, for example, on a B49 blend of diesel. None of the other elements of this which might go to government policy and supporting or development of a biofuels industry are impacted by this piece of legislation. This legislation purely and simply deals with the closure of a loophole that exists that allows companies to claim an excise rebate in circumstances where they have not paid excise.

Senator JOYCE (Queensland) (8.05 pm)—I think we need to push this point. We do not know how much biodiesel is being produced at the moment—we do not have that information. However, we do know where it is being produced; it is being produced in myriad places, including a lot of regional towns. We know that if all the biodiesel that is currently going to cause the problem of revenue being forgone ends up as part of standard diesel, being five per cent biodiesel, the revenue position to the Treasury will be exactly the same. Whatever was forgone in the past, it will be exactly the same amount that is forgone in the future. It is just that it is going to be done under standard diesel as opposed to biodiesel. The five per cent of biodiesel that is in standard diesel will have collected the production grant and will also collect the full excise from the end consumer. If that is the case, what is the Treasury argument about the hole that we are trying to cover up with this legislation?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.06 pm)—I do not accept the premise Senator Joyce makes that the vast majority of production will go into a blend that meets the standard. I think that is a relatively long bow to draw. He might like to draw it, I will not. On that
particular point, we will have to agree that we are on different paths.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (8.07 pm)—The minister describes the cleaner fuel grant, as I understand it, as a loophole. How is it that as recently as the 2003-04 budget and the subsequent legislation which put in place the Energy Grants Credits Scheme—that decreasing benefit to biodiesel—that loophole was not discovered given its size and prominence? Clearly the minister disputes this, but this was a great announcement at the time as a way of allowing excise to be introduced by 2011 while making sure that biodiesel was not disadvantaged. How come this loophole was not discovered at the time when the payments were very clear? I certainly understood them, I am sure Senator Joyce did. How come this has suddenly become a loophole, when it was not two or three years ago?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.08 pm)—I did not say that the cleaner fuels grants scheme was a loophole.

Senator Allison—What was the loophole?

Senator COLBECK—The loophole is in the claiming of excise on a biodiesel blend that has not had excise paid on it for the full value. If you were to buy 100 per cent mineral diesel, you would pay excise on it at the full volume and claim that back. If you were to use a biodiesel blend of B49, you would be paying excise on the mineral diesel component of 51 per cent. But, under the tax legislation, there was a capacity to describe it as diesel and therefore claim a full fuel diesel rebate of whatever the rebate value was at the time on the full volume of the litre of diesel. Therefore, you are claiming 49 per cent of that excise value on the biodiesel value, which had already had a cleaner fuel grant payment and which effectively left it tax free. That is where the loophole is. It is not in the cleaner fuels grant; it is in the taxation treatment. That became apparent to the government about 18 months ago, just after biodiesel came into the tax system.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (8.10 pm)—Can the minister explain then how that works for 100 per cent biodiesel?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.10 pm)—One hundred per cent biodiesel is charged excise and then claims the cleaner fuels grant scheme, which effectively wipes the excise value out. It is excise free.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (8.11 pm)—That is my understanding of it too, but now if you compare 100 per cent biodiesel with diesel, for diesel there is a fuel tax credit, which is 18c a litre, compared with a biodiesel Energy Grants Credit Scheme rebate, which is only 14.8c a litre, and that 14.8c a litre progressively decreases to zero by 2010. That is precisely the problem: diesel goes on getting 18c a litre, but the Energy Grants Credit Scheme is an ever-decreasing amount. That is what gives biodiesel the great disadvantage.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.11 pm)—I think this is where we start getting into the complexities of the issue. There is no situation, for either on-road or off-road use, where biodiesel is at a disadvantage to mineral diesel.

Senator JOYCE (Queensland) (8.12 pm)—I want to go back to the cost of this, because it is very important that we know what the costing of this proposed amendment is. We have certainly worked out at this point
in time that it is not going to change how much it costs the Treasury. We have proven that, because we know that in the future, under standard diesel that has a five per cent biorenewable component, they will be getting both the production grant and claiming the full excise. And we know it is going to change who gets it, because now the person who gets it is going to be the major producer proximate to the oil company or the oil company itself that produces it. We do not know how much is being produced, yet we have come up with the fact that it is going to cost $1.5 billion in so many years time—we do not know how; we just plucked that figure out of the air and put it in the preamble here. Seeing as we know the eventual cost is going to be nil, no difference, and we know that all that is going to change is who produces the biodiesel, can the Treasury give any estimation whatsoever of what is the current cost of supporting this new biorenewable fuel industry in biodiesel?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.14 pm)—I apologise, but I am going to have to ask Senator Joyce to go through that last piece again, unfortunately, because I was grabbing some advice on some figures from my advisers. I apologise, but could you succinctly run through that last bit again for me?

Senator JOYCE (Queensland) (8.14 pm)—I understand it is a complicated issue, but it is very important because we are about to vote on one issue on the premise that it is going to cost too much. Yet no-one is able to determine what the cost is. In fact, no-one is able to even tell us the premise for working out how they came up with the cost. It sounds like this cost—the $1.5 billion—was just plucked out of thin air. Ten billion dollars is a better figure; we could have said that. But if we are to get rid of this so-called production grant so you cannot claim the rebate if you have got the production grant, and if we do it on the current amount of biodiesel that is being produced, has anybody got any idea what income is being forgone on that? What is going to be the saving because of that? Has anybody in the whole of Canberra got the foggiest about what amount of money we are talking about?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.15 pm)—Senator Joyce, it goes back to a couple of the points that we have discussed already. It relates to where the blends might go, what might happen pending this decision and on the future of the industry. It depends on what you also acknowledge is a range of estimates of projected industry production. In that respect, it is very difficult to put some numbers on it. But I go back to the original premise that I put to you previously, that this is about applying tax law to a good policy framework. It is about closing a loophole that created an unintended consequence when taxation started to apply to biodiesel, so that there is an even treatment of these products across the board. It is not about creating a tax saving or a measure in some form, although I am advised that—on Treasury calculations of one billion litres, based on the figures that were given to the inquiry—the cost to the forward estimates out to 2015 would be something of the order of $1.2 billion.

Senator JOYCE (Queensland) (8.17 pm)—Okay, so the result before and the result after are potentially exactly the same, with regard to revenue forgone. The cost we are basing it on is an estimate based on something that was picked up at an estimates committee and the Treasury has just run with that, so there are no real forensics in the cost of this. There has been no real discerning of how much this is costing at current levels. Nothing has been put on the table about what it is costing at current levels. The only thing...
that clause 43-5 on page 16, lines 31 to 32, is going to change is who is producing the biodiesel.

**Senator COLBECK** (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.17 pm)—Senator Joyce, I think we have already agreed that you are going to places that I am not prepared to go to in relation to forward projections. You might forgive me, but I have read the report and spoken to some who were on the committee, attended the hearings and participated in the preparation of the report. That report has been prepared on the basis of the evidence that was given, and the committee was prepared to take that evidence as part of the preparation of its report. So I think it is reasonable, given the committee was looking to do that, that Treasury has made some calculations based on evidence that was given to the committee. In the same context, I think it is fair enough that those two things be taken in parallel. If the committee is prepared to take on face value the evidence that was given to it, I think it is fair enough that Treasury might consider doing the same thing.

**Senator JOYCE** (Queensland) (8.18 pm)—Even if that is the case, and even if there is that obscure number of one billion litres—and just because it is there I do not know whether it is correct; I have reports, made since that time, that raise very strong doubts that we are ever going to produce one billion litres in the form that they are talking about, but let us grant them that and say we will—then if we use this phrase, ‘We’re closing a loophole’, then what we have proven here tonight is that we have not. It is still there, it is just that now if that billion litres becomes part of the five per cent component of the standard diesel then we have proven here tonight that the loophole—if we want to call it that, and it is not; it is a production subsidy to engender an industry, drive regional economies and give some hope back into some of these areas that have been left behind that has come about and that we can see prospering at the moment—is not closed. It was there before, and it will be there after. It is just the form of where that proportion of biodiesel goes. It now goes into the fuel that is 95 per cent diesel and five per cent biodiesel. So what is the purpose of clause 43-5, page 16, lines 31 to 32?

**Senator COLBECK** (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.20 pm)—Senator Joyce, you might like to question the evidence of the committee, and obviously you have had some other advice. This is evidence that industry gave the committee, and it is the basis of the calculation that has been done. You might have had some other advice that you might prefer to follow, but the committee has accepted the advice that has been put before it. That is the basis on which the calculation has been done.

In respect of your further comments, I think we agree that we are in different planes on this issue. You obviously have a perspective; the government view does not concur with that, and I expect it will be the subject of some further conversations. We certainly reject the premise that it was an incentive or anything of that nature. Those mechanisms are delivered through other processes, and I have already described them several times. This is about the taxation treatment of fuel—diesel and biodiesel—and the incentive mechanisms that the government might want to put in place are dealt with through other processes, and I have already described them several times. This is about the taxation treatment of fuel—diesel and biodiesel—and the incentive mechanisms that the government might want to put in place are dealt with through other processes, such as the cleaner fuels grants scheme, the energy grants and so forth. There are very clear distinctions, given that none of those mechanisms are impacted on at all by this legislation.

**Senator ALLISON** (Victoria—Leader of the Australian Democrats) (8.22 pm)—The
minister talked earlier about on-road use of diesel and we worked through the figures. I wonder if we can do the same thing for off-road diesel and biodiesel, assuming 100 per cent biodiesel so we do not get mixed up in excise questions. For off-road use, let us say for the sake of argument that 100 per cent biodiesel has a selling price of $1.40, or $1.27 excluding GST. There is no Energy Grants Credit Scheme rebate, because it is off-road use. Can you confirm that? There are no other adjustments, so the selling price would be $1.27 for that biodiesel if it started its life at $1.40. If we look at diesel in exactly the same circumstances, if the selling price was $1.40, or $1.27 excluding GST, for off-road use diesel would receive a fuel tax credit of 38c a litre. Is that correct?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.23 pm)—Yes, that is correct.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (8.23 pm)—By my reckoning, this would result in biodiesel having a selling price of $1.27 and petro-diesel having a selling price of 89c. Minister, if you can confirm that, doesn’t that absolutely demonstrate the disadvantage to biodiesel in your proposal? Doesn’t that mean that farmers and miners and anyone else off road would have rocks in their head to be buying biodiesel when, all other things being equal, there is such a huge disadvantage to biodiesel for off-road use?

As I tried to point out earlier, there is a disadvantage for biodiesel on road. We do not have the benefit of modelling to show this, but even using current prices and projecting them out demonstrates that this is absolutely the case. But nothing could be more clear than the situation for off-road use and how this bill so significantly disadvantages it. It does not have the Energy Grants Credit Scheme; it does not have the excise that you talked about earlier—the so-called loophole. I do not think it is a loophole, but that is not a factor. This is a pure and simple case of diesel getting the fuel tax credit of 38c a litre and biodiesel not getting any sort of rebate or credit. Therefore, it is going to be so much more expensive than diesel.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.25 pm)—Effectively, what you are talking about is the difference in the price of the product.

Senator ALLISON—I am talking about the different treatment of the products.

Senator COLBECK—Senator, biodiesel does not attract any excise, so therefore it cannot claim any excise back—that is the point. Mineral diesel attracts an excise and then gets a credit under the off-road scheme. Biodiesel does not attract excise, so it is net at price. What you are describing is effectively the cost price difference between two different products. That is not part of the impact of this bill. What I might say, though, is that if you are looking to promote a more environmentally friendly use and going to a B100 fuel for use in equipment, what the loophole does is give an advantage to a blended product. It gives an advantage of 18c to B49. There is clearly an unintended advantage given to a product as part of this process that even distorts the biofuels market.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (8.27 pm)—Minister, I am referring to the diesel which is made available to off-road users at the present time which attracts no excise. It will still get a 38c a litre fuel tax credit. We are talking here about the users—and there are many of them—who currently use diesel without paying excise on it. That is the comparison I am trying to draw. I believe that the users are
farmers—the department might be able to confirm that. But there are some users at the present time who do not pay excise on diesel and yet receive a fuel tax credit of 38c a litre. Is that not the case?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.27 pm)—Senator Allison, that is not correct. The only reason that it nets out to having no excise is because it has received a diesel fuel rebate. That is the difference. It does attract excise, and that excise is rebated through the Diesel Fuel Rebate Scheme, and so it nets out. What you are talking about are two products that have different prices. You are seeing the differential of those net prices in the end figures that you are talking about.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (8.28 pm)—I ask the minister to check with his advisers on that. As I understand it, there are many off-road users that are excise free. Is that not correct, or are we talking now about the users who will be excise free under this bill?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.28 pm)—Senator Allison, they are excise free by virtue of the diesel fuel rebate. That is what makes them excise free.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (8.29 pm)—Precisely, Minister: they are excise free because they get the rebate. But then they get a tax credit on top of that for off-road use.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.29 pm)—Senator, that is not my advice.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (8.29 pm)—It might have been useful to have explained that to the biofuel industry, because it is certainly their understanding that there is a double jeopardy situation in place, particularly for farmers—who might even be assisting in producing biodiesel. The industry believes that they are hugely disadvantaged by this legislation because diesel will become so much cheaper for off-road use than biodiesel. So I would be interested if you were able to confirm once more that diesel for off-road use, where no excise is paid by virtue of the—

Senator Colbeck—Diesel fuel rebate?

Senator ALLISON—Yes.

Senator Colbeck—I know what you mean.

Senator ALLISON—You know what I mean. It is hard to get across all of the names of the rebates, credits and so on. But you can confirm that a fuel tax credit does not apply in the case of off-road use, where excise has been paid for diesel and there is an offsetting credit for it as well.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.30 pm)—My advice is that the fuel tax credit replaces the diesel fuel rebate. So they are effectively one and the same.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (8.31 pm)—Just to reiterate, it is probably useful to come back to the effect of my amendments, because the minister says there is no disadvantage with off road. That will be a great relief to a lot of biodiesel producers and users—and that remains to be seen, because they are certainly not persuaded to that thus far.

I will just explain what the Democrat amendments will do. They will remove the energy grants credits rebate, which applies in ever-decreasing amounts over time. From 1 July it will be 14.8c a litre, then it will decrease to 11c, then to 7c, then 3.7c and then
zero. We think a fair thing to do—and this seems to remove the objection that the ALP had to what was called ‘double-dipping’, although it is not clear what ‘double-dipping’ or ‘loopholes’ actually mean; the use of that language has not been helpful—is remove the Energy Grants (Credits) Scheme and replace it with exactly what diesel has. Diesel will be receiving 18c a litre—that is, the 38c a litre excise credit less the road user charge.

So we say: apply the same scheme to both diesel and biodiesel. That seems to us to be the fair thing. That way you have a level playing field. That way the cleaner fuel grant—and I dispute the minister’s claim that this was not intended as a way of assisting the industry to develop, given its fledging status at the present time in comparison with oil companies, which, of course, have had around 100 years to build up their refineries, trucks, systems, markets and so on—will go over time after 2011, as was the proposal in the 2003-04 budget period.

Let us leave the clean fuel grant there. What that does is reduce the gate price. At this stage, biofuels are much more expensive to manufacture than it is to buy and refine oil. At the present time the gate price is about $1.63 and, if you take away the 38c a litre cleaner fuel grant, you get a price which is starting to be comparable with diesel. So let us leave the cleaner fuel grant in place and apply the fuel tax credit as is being applied to diesel. That way we would maintain the relativities.

For instance, where the gate price for diesel is $1.32, and you take off the fuel tax credit, you get $1.13. In the case of biodiesel, under our amendments, if the gate price was $1.25, which at the present time is roughly comparable, then you would get a fuel tax credit of 18c and the final price would be $1.07, thus maintaining the relative price advantage, which I think we would all have to agree is necessary for this fledgling industry. So you would get a final price of $1.07, giving biofuels an advantage of some 6c a litre. It is not a lot, but that 6c a litre is necessary in order to encourage investment in this area. That way we start to displace some of the imported fossil fuel—oil—that comes mostly from offshore producers these days, as we start to build up an industry in this country.

As I said in my speech on the second reading, Germany, which now produces about six million litres of biofuel, did not impose an excise on its biofuels for 20 years. It would be fair to say that our biofuel industry has really only been going for the last five years, if that, and it was only recently that the Prime Minister said we should achieve a target of 350 megalitres. The Prime Minister also put together a package to assist with grants for setting up infrastructure and plants that would produce biodiesel in order to assist this industry to get a foothold.

The Democrat amendments would maintain the status quo, get rid of what might be ‘double-dipping’ or a ‘loophole’ or whatever you might call it, and take away the current 14.8c a litre and give biodiesel the fuel tax credit that is currently going to diesel. It is a simple proposal. As I said, it keeps the current relativities in order. It allows the biofuel industry to grow in the way that was planned only two years ago. I think that what struck the members of the committee was that a lot of decisions about investment were made two years ago, in 2004, when the government put through the legislation. It was certainty for the industry, but suddenly it has been declared that there is this big loophole and we have to give huge excise cuts for diesel, and the next thing we know biodiesel is going out the door.

Minister, I urge you to again consider this. We must do the modelling. We must under-
stand what the impact of this is. You have rejected the idea that biodiesel will lose relativity in terms of a small benefit over time. You have rejected that, but you have not been able to tell us why or how. You have not done the modelling that demonstrates that your position can be relied on. Certainly the industry does not believe it. We do not believe it. I do not believe it. We have listened to the advice, pored over the figures and looked at the legislation. It is complex and difficult to understand. But, at the end of the day, even though this has been around for a while, I think we finally twigged to what the problem is. The problem is the preferential treatment that is being given to diesel. I suggest that the government are going to live to regret it if they do not look seriously at this amendment and at the very least take this legislation back and say: ‘All right, we don’t know what the impact is going to be. We haven’t done the modelling. Let’s have another look at it. Let’s actually consult with the biofuels industry.’

Minister, you said you had consulted, but I am told and we were told at the hearings that the biofuels industry did not get a look-in on this consultation with whoever it was—I do not know. Maybe it was the oil industry rather than the biofuels industry. Maybe you can explain that. But they are not happy. You said yourself that there was not a single submission or letter sent to you saying: ‘We’re delighted with what you’ve done. We really think that the biofuels industry will grow in leaps and bounds and become a viable force in this country.’ You have not been able to demonstrate that. You keep talking about loopholes, but we are not convinced. We think that it is important. If we are going to have a level playing field then let us have one. If we are going to have excise imposed on biofuels—fine. I think the industry has accepted that and they are gearing up towards it. But there is not going to be any-body who is going to take advantage of the situation in 2011, when excise starts to be imposed. They will be gone long ago. They told us that 99 per cent of what they produce will be non-viable under this arrangement. So forget about the excise starting in 2011 and going through to reaching half of that of petrodiesel by 2015. There actually will not be any revenue to be garnered by the government from this proposal.

As I said, the industry was taken aback by the fact that the government decided to impose excise when it did, in 2011. Fortunately, we had that put back three years; otherwise, it would have been next year or the year after that it was being imposed, which would have been far too soon. I think it is pretty clear that the industry needs volume in order to be able to pay excise and still be competitive with diesel. Those volumes are not going to be reached with this legislation. There is going to be a downturn in development. We have had letters from the ANZ bank. In fact, the ANZ bank wrote to the Prime Minister saying: ‘We’re not prepared to back any investment in this industry. It’s got no future. There’s no way we can fund projects which are not going to be viable.’

If you are not listening to that message, Minister, and if the government is not listening to that message then you should withdraw this bill and think about it a bit more so that it is quite clear to everybody what the implications are. Do the modelling and tell us what it means. Tell us what happens with various rates of gate price for diesel and biodiesel. Tell us what happens for farmers. Tell us if it is not now in their interests to start producing biofuel, because that is what the committee was told. They cannot be wrong, Minister, and you have not been able to demonstrate how they are wrong. We have shown you figures and given you tables. You have not been able to demonstrate what is wrong with those tables except to say, ‘We
don’t know what’s going to happen in the next few years.’

It is not good enough, because this is an important industry and your government said it was important. You said it was important enough to provide grants. You said it was important enough to encourage organisations and investors into this field. Minister, they are frankly very disappointed with what has happened. You have not been able to demonstrate that their reason for disappointment is ill-founded.

Senator JOYCE (Queensland) (8.41 pm)—This whole issue started with the biodiesel industry when we were lobbied by small farming groups coming into the office and saying: ‘We’ve got a major concern that this industry is going to go over. We have an investment in it personally and our towns have an investment in it as well. Socially, obviously, the community has an investment in it.’ Right from the start it was obscurum per obscurius. The Senate inquiry had to come down with a finding that there were things that needed to change in this bill because it just did not have the information. The Treasury’s submission to it was light, to say the least, and the position that you would have to come up with after that Senate inquiry is: ‘We need to look at this a bit closer. We need to deal with this with a bit more critical intent.’

Even tonight the mystery tour goes on. We have now found that, if people want to call it a loophole, it is going to exist at the end, it existed before it and it will exist after. Nothing has changed. There are only two things that are going to change with this—that is, who is producing the biodiesel and where they are producing it. They are the only two things that are going to change. Who is going to be producing it is large-scale producers. Where they are going to be producing it is right next door to the major refining plant. I do not know what their corporate nature or otherwise will be, but that is what will happen. The only result that I can gather out of that is that the developing bio-renewable diesel industry that has actually gained legs, is growing in regional towns and is broadening the economic base of those towns will collapse. That is what we know will happen.

Being a person who is from a regional area, being the senator in this chamber who is the furthest from the coast, being from an area that is involved with grain and being from an area where we have just finished putting in a wheat crop right now, and knowing our diesel requirements, this was a great industry. Finally, there was something that could actually pick those small towns up, and without a huge amount of capital investment it could have a strong connection into that whole community environment. There was a bit of a sense of hope with it. It was just a little glimmer of something that actually might work. They knew that in the long term it had to become viable, like everything else, but they just were not prepared for the lights to be turned off halfway through the show. That is what has happened. Halfway through the show—click—it is all over. The only justification people can give is: ‘We never intended that baby to grow; we never intended to have that child, and therefore we are going to shut it off now.’ That is just unfair.

Senator Allison—Have an abortion.

Senator JOYCE—Yes. What has to happen at the very least is to have some consideration of the farming communities who have made a financial investment in this industry. They need to be given some sort of position in this whole debate and be given some sort of sense of. ‘We know we could have changed that with a regulatory instrument a couple of years ago and saved you the trouble of developing that industry, and that
would have avoided the whole problem. We had the power as the government to change that with a regulatory instrument years ago. We chose not to. You got halfway up on your feet, you went to your bank manager, you borrowed a heap of money, you mortgaged your place, you committed yourself to this process and you spent a couple of years of your life doing it, but we know that it was a bit of our mistake’—that is, the government, and I am part of the government—‘We made a bit of a blue on this one. What we’ve got to do is fix it up, so we’re going to go hand-in-hand with this piece of legislation that we’re about to vote on.’

We should say, ‘We know we’ve made a blue, but what we’re going to do is have some sort of program that’s going to get you from here to over there, to a couple of years down the track, to deal with this issue.’ It would be something that you could take to your bank manager and then say: ‘Stop ringing me up. I’ve got a solution here. I’ve got something that can fix it.’ But we do not have that. We have to think about those people when we are dealing with this legislation. You have to have a bit of a think about it. If you do not, it might be green curry and a can of beer after you leave here and everything is fine, but it will not be fine for those people.

**Senator STEPHENS** (New South Wales) (8.46 pm)—The discussion this evening has certainly been very interesting. We have managed to extract a little bit more information that makes a bit more sense of the Fuel Tax Bill 2006. As I said in my speech in the second reading debate, the issues that most concerned all members of the committee were the lack of information and the lack of time in which to consider the complexity of these bills.

I have a lot of sympathy with the issues raised by Senator Allison and in the evidence that we received from the biofuels industry, particularly in the evidence that we had about a lack of policy coordination and consistency. We have heard about it tonight in the concerns that people have about the biofuels industry. I will briefly quote from the report:

The Biofuels Taskforce, for example, represents the development of positive policies for new ethanol and biodiesel industry growth, while Fuel Tax Bill 2006 represents a clear example of impediments being put in place that will undermine the achievement of those policy objectives.

So there is no doubt that there is a lot of policy confusion in this chamber and certainly a lot of confusion out there.

I want to put on the record Labor’s position on the Democrat amendments. The evidence that we have heard both tonight and during the inquiry into the bills clarifies the issues for us very clearly. The current definition of on-road diesel under the Energy Grants (Credits) Scheme has led to what we have heard tonight called an ‘unintended consequence’, an ‘unintended advantage’ or a ‘loophole’, whereby tax-free biodiesel has been able to attract a credit when blended with diesel. Although biodiesel is specifically excluded from the definition of off-road diesel, the definition does allow blends of diesel and biodiesel consisting primarily of diesel to be treated as off-road diesel. We understand and accept that that definition is intended to allow biodiesel blends sold as diesel to qualify for an off-road credit. But biodiesels and diesel blends of up to 49 per cent biodiesel have emerged in the market as a result of this definition in the current legislation, and that is being exploited by some biodiesel producers. We accept the argument from the minister that that is the case. So this loophole effectively allows tax-free biodiesel to be entitled to an off-road credit at the same rate as diesel. Labor accepts that the fuel tax bills will rectify that anomaly.
Under the proposed Democrat amendments, the unintended advantage of the current legislation would in fact be extended because unblended biodiesel would be entitled to a full fuel tax credit—an effective subsidy equal to 19c per litre. After July 2006, biodiesel will remain effectively excise free for off-road use as well as enjoying a lower effective tax rate for on-road use. So, importantly, biodiesel or diesel blends that meet the diesel standard will continue to receive the same fuel tax credit treatment as diesel.

I will go through the Democrat amendments one by one. Labor believes that amendment (1), relating to clause 43-5, will have the effect of the subsidy under the energy grants scheme for on-road use being taken into account for calculating the fuel tax credit. We believe that if you do not pay fuel tax then you should not receive a fuel tax credit. Amendment (2), relating to paragraphs (3)(c) and (3)(d), actually amends the act to allow biodiesel and other taxable fuels to be taken into account in the calculation of the fuel tax credit. We understand that this actually increases the biodiesel subsidy. We accept the figures from Treasury. Labor sought clarification of the cost from Treasury and was advised that, over the forward estimates, that represents over $1 billion. We accept that that is the case. In amendment (3), the clause is purely definitional and, of course, it was dealt with in the excise bills that we dealt with last week. So, on the basis of that and the consideration of the debate, Labor is not in a position to support the Democrat amendments, while being very sympathetic to the issues raised by the biofuels industry.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (8.52 pm)—It is really disappointing that the Labor Party cannot see its way to supporting these amendments. I wonder whether we could not all share in the advice that Treasury has provided to the ALP to make it so confident that this will not damage the biofuels industry. Perhaps that advice can be forwarded to us.

I want to pick up on the point that I raised earlier about the waste oil recycling. Parliamentary Secretary, I do not think you were able to answer some of the questions I raised. I came across part of the submission from the Australian Oil Recyclers Association. I will read this to you and get your response. They say in their submission:

Since 2004 Oil recyclers reported to the Treasury and ATO via individual written submissions...and oil recycler members of the Oil Stewardship Advisory Council advising that the removal of the $0.07557 excise on new burner fuel would make recycled product less competitive in the long term, not the relatively short time of three years on a reducing basis—
as was said to be the case by Treasury. The submission goes on to say:

What is worrisome, is that some members have reported the loss of recycled oil sales to customers who will change to burner fuel gas which does not attract excise because they do not want to finance the cost of the $0.38143 while they wait for a Tax Credit on their BAS.

Of course, gas does not attract that excise, as I said. So there are two reasons that the waste oil recyclers will be disadvantaged and be likely to lose markets for those 200 million litres. Are you now able to give us some advice on the removal of the $0.07557 excise on new burner fuel and how that will affect the waste oil industry? Could you also advise whether you consulted with that sector? We know that you did not consult with the biofuels sector, but did you consult with that sector?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.55 pm)—There are two things. The issue in relation to carrying the cost through to the new ar-
rangements is the reason that their customers have been included in the transitional arrangements. I know I have covered that before. I refer you to a budget announcement by Senator Ian Campbell of $30.1 million to promote oil recycling over the next three years. It is to assist oil recyclers to adjust to the federal government’s fuel excise reform.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (8.55 pm)—The parliamentary secretary might explain what that $30 million will do. If it is just to promote recycling, that is not the problem. What we need to do is promote a market for the recycled product; otherwise, we are going to have containers right around the country with millions of litres of recycled oil sitting around waiting for someone to buy them. A two-year transition might be okay for those two years, but what happens after that? There will still be the competition from gas for this recycled oil. If gas does not attract an excise, gas is going to look pretty attractive to those burners of recycled oil for some of the uses that you mentioned earlier today—for greenhouse and the like. What is that $30.1 million going to be spent on? If it is just promoting more recycling, all we are going to do is add to the stockpile—which, as I said, we will have trouble finding a market for.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (8.56 pm)—According to the information that I have here, eligible recyclers will receive 0.7557c per litre from 1 July 2006 to 30 June 2007; 5c per litre from 1 July 2007 to 30 June 2008; and 2.5c per litre from 1 July 2008 to 2009. As I said, the funding is $30.1 million over three years—$15.1 million in 2006-07, $10 million in 2007-08 and $5 million in 2008-09. So it will be going to the recyclers.

Senator JOYCE (Queensland) (8.57 pm)—I have to admit that, after hearing Labor’s position—and obviously you have locked yourself in there—I am disappointed. You have let me off the hook, because now the bill is going to go through. Apart from the theatrics of crossing the floor, the pressure is off me. The bill will go through, it will go to the lower house and it will happen. Unfortunately, the nightmare has just begun for those people who have their houses on the line over this piece of legislation. For those people in the poorest electorates in our nation, the nightmare has just started. Maybe in your next caucus meeting you should have a think about who the afflicted is here and who you went in to bat for—which side of the debate you went in to bat for tonight. It is a shame. It goes to show that a little talking goes a long way.

I wonder what suggestions you might come up with for regional Australia. Do have any other suggestions for regional Australia? Is there something else out there that you might want to enlighten us on regarding how we take these people forward? All I can say is that, when they start ringing up tomorrow, I will tell them about clause 43.5, page 16, lines 31 to 32 and that, apparently, we were closing a loophole. We were closing a loophole that, if it existed before, exists now—it is still there—and the people who were going to be the beneficiaries of a biorenewable fuel industry are not going to be regional Australians; they will be the major oil companies.

Senator STEPHENS (New South Wales) (8.59 pm)—I want to pick up the point that Senator Allison made about the recyclers and reiterate the concerns that we had about recycled oil. Again, it is a matter of poor policy coordination when we have the Product Stewardship for Oil program and programs that are being promoted under the Environment and Heritage portfolio on the one hand, and the issues and the impact of the bill on the other hand which we see as generating very serious future problems for the envi-
environment. I do urge that you take up Senator Allison’s point and consider that impact further.

Senator Joyce has left the chamber, but I did want to make the point too that if he were really so concerned I think he would have done us all a favour if he had supported the second reading amendment that I moved which would have looked at a 2009 review. It was a bit disingenuous, I think, Minister, to suggest that the amendment did not actually fit within the debate on this bill. The merit of a 2009 review to assess the progress of the biofuels industry in this country stands, in my view. The government had no reason for opposing the amendment and it could certainly have given us all a bit of hope that we would not be abandoning the industry too much in the future.

The TEMPORARY CHAIRMAN (Senator Chapman)—The question is that the Democrats’ amendments be agreed to.

Question negatived.

Senator JOYCE (Queensland) (9.03 pm)—by leave—I just went to the bathroom and missed the vote. I record my vote for the ayes to the Democrats’ amendment.

Bill agreed to.

FUEL TAX (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2006

Bill—by leave—taken as a whole.

Senator STEPHENS (New South Wales) (9.03 pm)—by leave—I move opposition amendments (1), (2) and (3) on sheet 4959:

(1) Schedule 3, item 12A, page 19 (lines 8 to 11), omit paragraphs (1)(a) and (b).
(2) Schedule 3, heading to Part 4A, page 19 (lines 2 and 3), omit “arising between 1 July 2006 and 30 June 2008”.
(3) Schedule 3, item 12A, page 19 (lines 4 and 5), omit “between 1 July 2006 and 30 June 2008”.

The purpose of the amendments standing in my name is to extend the transitional period of the arrangements that have been put in place. Given the time we have spent debating the major bill, I leave it there.

Senator IAN MACDONALD (Queensland) (9.04 pm)—As I mentioned in my speech in the second reading debate on this issue, I am concerned at the position of the fishing industry in particular as a result of the removal of the ability to immediately have claimed back the excise which is payable on the fuel. As the current situation now stands the fuel companies claim the excise back on behalf of the fishermen and so the fishermen only pay the price of the fuel and do not pay the excise at all. With this new arrangement under the bill, fishermen will now have to bring forward their payments effectively for three months. That will involve them in a cash flow problem, which I elaborated upon in my speech.

This bill contains a lot of good issues and very positive actions to help with fuel excise, and the transitional arrangements for two years, whilst not perfect, will ameliorate the impact on the fishing industry in that two-year period. But the Labor Party report in the committee, as I understand it, suggested that if these things were appropriate for two years then why not leave them in place permanently. As I indicated in my speech in the second reading debate, I am attracted to that proposition.

The fishing industry is undergoing fairly significant difficulties at the moment for a wide range of reasons, among them the price of fuel which, I repeat, the government has not caused and can do little about. No government around the world has much ability to do anything about that. There are difficulties with imported product and with the Representative Areas Program in the Great Barrier Reef. The Queensland Seafood Industry
Association is in financial difficulties and is actually being propped up by the government at the present time. So the voice of the fishermen is very hard to hear because they are not organised and they do not have the money to pay staff to continue that work. The Australian Seafood Industry Council went into voluntary receivership just a week ago, I understand, which means that at national level now there is not a single voice speaking for the fishing industry. This has made it very difficult.

Again, as I said in my speech in the second reading debate, I always thought that the better way to deal with this—and it is an approach I pursued when I was minister for fisheries—is that we should have asked the fishermen to calculate what the cost to them would have been of this bringing forward of three months of the payment. I thought that in most cases it would not have been a large amount of money. If the fishermen could establish what it would cost them then I thought it would be well within the bounds of government finances to send every fisherman a cheque for that amount, and life could have moved on and they would have been able to come into the system without any financial cost to them. Unfortunately, that suggestion was not followed up. I still think it is the best suggestion and I ask the minister to indicate whether, if it was able to be established that there was a cost, the government might look at that some time down the track.

For the moment, the more immediate refund of the excise will be of some help. Those big fishing operations which have clerical staff, big boats and big turnovers will be able to handle this very easily because they have the staff to put in the claims as the fuel is purchased and they will get the money back relatively quickly. In some cases they may get the excise back before they have to pay it if they can get credit terms. But it is going to make it very difficult for the smaller fishermen. Very often the sole office support for the smaller fishermen is in the wife, who, as well as running the home and perhaps having a job herself, has to fill in the forms and post them to the tax office. I understand that for some reason the forms have to be on paper; they cannot be lodged electronically. I fail to understand why the tax office cannot accept them electronically, but they have to be on paper. The refund is made between four and 14 days. Again, in this day and age I cannot understand why the tax office could not refund electronically on the spot if the fishermen could get the claims in. I ask the minister representing the Treasurer in the chamber to get the tax office to consider whether this could be done electronically and whether the payments could be made almost instantaneously. In this day and age it should not be beyond the tax office to do that.

The proposal put by the government will help a little in that two-year period. But then what happens at the end of the two-year period? We are going to be facing the same sort of situation. That is why to a degree I am attracted by the Labor Party amendment. I am conscious, though, that this bill is principally bringing good news to rural and regional Australians—indeed to all Australians but I am particularly interested in rural and regional Australians. As an alternative to the Labor Party amendment, my proposal is to seek from the Treasurer an undertaking that, prior to 31 December 2007—that is 18 months away and six months before the two-year transitional period comes to an end—the government will conduct an investigation into the impact that the removal in a few days time of the early payment provision has had on fishermen. I would like the Treasurer to indicate that he would be prepared to have, within 18 months, an investigation into what affect that has had on fishermen. I would like the Treasurer to commit as well to
reporting the results of that investigation or assessment to parliament before, say, 31 March 2008—still three months before the completion of this transitional arrangement.

If the assessment by the Treasurer shows that there has been a real impact or that there is some way we could better ameliorate the impact—perhaps going back to getting fishermen to establish what exactly it is going to cost them and the government making a decision in 18 months time to pay out the fishermen that amount—then that could be proposed when the results of the assessment are tabled in parliament. Minister, as an alternative to the Labor Party amendment, would it be possible to get some form of undertaking from the Treasurer along the lines I have mentioned? If we can do that it will ameliorate some of the harsher impacts—fishermen will not be quite as well off as they are now—of the bringing forward by three months of the payment of excise. It will allow the matter to be looked at and if the fishing industry can make the case in 18 months time, when they can better understand the impact of the new arrangements, then it is something that could be reported on. If the Treasurer were able to give a commitment to not only make the assessment but also report to the parliament on the results of that assessment then I would be to a degree satisfied by that and it would enable me to proceed with this legislation at the earliest possible time.

Senator STEPHENS (New South Wales) (9.14 pm)—I want to comment on the suggestion made by Senator Macdonald. He has made a good case for fishermen and those regional producers who still consider that they will be affected by the transitional arrangements. The suggestion that we might ask the Treasurer to look at the particular impacts for that industry really does not resolve the concerns of those who gave evidence at the inquiry. Certainly, the representative of the National Farmers Federation was very concerned about the lack of flexibility for claiming fuel credits. We heard very strong evidence from the Australian Chamber of Commerce and Industry as well about the range of people who might be affected and their concerns about their cash flow and compliance costs going up—but not as much as they will at the end of the two years. They did not think it was a vast improvement.

Finally, the concerns that were expressed by the National Farmers Federation are the subject of the additional information that was tabled today—the letter from Minister Dutton—seeking an amendment to the report on the bill from the Senate Economics Legislation Committee. I refer to the e-grant system. During the committee inquiry we understood that that would be extended throughout the transition period. That seemed to be the evidence that we were provided with by Treasury, but we have been advised through this letter from the minister that that in fact is not the case. So those people do not have the option of the e-grant system and they will have to submit a paper invoice to get their rebates through. I am not confident that withdrawing the transition amendment will actually achieve what we need to do for those people.

Senator IAN MACDONALD (Queensland) (9.16 pm)—I hope that the parliamentary secretary in the chamber, or his adviser, will be able to indicate in his response to Senator Stephens why these things cannot be done electronically. It is simply mind-boggling in this day and age to think that the Australian Taxation Office cannot deal with this electronically. They have a huge staff. They do a pretty good job, even if it is a job that most of us do not like interacting with. As Australians we do not like to pay tax, but we all do. It does seem incredible that with all the resources of the tax office they cannot
do this sort of thing electronically. It is not as if there is a great evidentiary process to go through. You pay the price of fuel. We know what the price is. You can establish that you have paid the price and you can establish the excise you have paid. It should be a very simple matter of getting it back.

Senator Stephens highlights the fact that my concern has been directed more to the impact on fishermen, although I have to say that a lot of farmers in my area have contacted me personally. I have been a bit surprised that, particularly on our side of politics, more concern has not been raised about this. I am told that some of the representative farming organisations are quite satisfied with what is happening. Whilst my specific request to the minister is to give me an undertaking in relation to fishermen, although I have to say that a lot of farmers in my area have contacted me personally. I have been a bit surprised that, particularly on our side of politics, more concern has not been raised about this. I am told that some of the representative farming organisations are quite satisfied with what is happening. 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nently entail some extra costs, so I wonder if the parliamentary secretary could just clarify what the government’s attitude is to the arrangements for them during the transition period.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (9.22 pm)—The government will not be supporting the Labor amendment. We have already announced a two-year transition period to help businesses align their practices so as to claim their fuel tax credits via their business activity statements. I am very pleased that Senator Macdonald has acknowledged a fact that has rarely been acknowledged during the debate on these bills tonight—that is, that there is a lot of good news in this legislation. These bills lower compliance costs and cut $1.5 billion in fuel tax from eligible businesses and individuals across the country. So it is a significant benefit to business in Australia. These bills expand fuel tax relief from approximately 185,000 to an estimated more than one million claimants.

Maintaining the transitional arrangements for all of these claimants on an ongoing basis would be unsustainable as it would require permanently maintaining two separate sets of claim arrangements. However, the government will continue to monitor the effect of fuel tax reform on business during the transition period to ensure that there are no unintended consequences or impacts of the policy on industry. In response to Senator Stephens’s comments, the use of the transitional arrangements will be closely monitored to assess uptake by all claimants and compliance costs. Treasury will further consult with users of fuel during the transition process.

To demonstrate the fact that we will continue to monitor, and specifically in response to the comments and requests of Senator Macdonald, I can inform the Senate that the Treasurer has agreed on behalf of the government to have examined at least six months prior to the end of the transitional period on 30 June 2008 the impact of the removal of early payment provisions for fishermen from that date. The results of the examination will be reported to the parliament before 31 March 2008.

Senator IAN MACDONALD (Queensland) (9.25 pm)—I thank the minister for that and I appreciate his and the Treasurer’s commitment to do that examination. I think that will alleviate a lot of the concerns I and the fishing industry have. I wonder, as a matter of curiosity—and I do not want to prolong this—is he able to indicate why the form has to be on paper and why it takes four to 14 days to get back? I heard the minister say—and I heard it said before—that the Taxation Office is not able to run two parallel systems. But, gee whiz, in this day and age computers mean that you can press one button or another button—

Senator Stephens—It is operating now!

Senator IAN MACDONALD—As Senator Stephens rightly says, it is operating now. I am grateful to the minister for his commitment but it is a matter of curiosity that the tax office is in that parlous a state that it must use ‘snail mail’, as I think it is called. Even people of my vintage are able to operate a computer—reasonably well, I might say. Surely the tax office could. Is there some problem with the funding of the tax office?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (9.26 pm)—Senator Macdonald, the answer to your question is essentially a logistical issue of building a new element to the system to fit this transitional arrangement as part of the process. My advice is that the average time for payments is in the order of six days, even
using snail mail. It is essentially a logistical cost analysis of establishing and building a new system to operate during this transitional process for a relatively small number of people. It is considered to be more cost effective to operate it using what might be known as more traditional means.

Senator WATSON (Tasmania) (9.28 pm)—I want to speak briefly. I hope that the listening audience and the senators realise the impact of the statement that has just come from the parliamentary secretary. As a member of the committee that drew some attention to these sorts of issues, I think the fact that the government is going to monitor the progress and any likely adverse impact on the industries involved is good. I think it will encourage further investment to continue the good work that the biofuel industry has been carrying out, given what it has achieved to date. I congratulate the parliamentary secretary and I congratulate the Treasurer because this really is a good outcome. We have a transitional period and, during that transitional period, the situation will be monitored and any adverse effects will be taken into account, so I think we close with a good outcome.

The TEMPORARY CHAIRMAN (Senator Chapman)—The question is that the amendments moved by Senator Stephens be agreed to.

Question negatived.

Bill agreed to.

Bills reported without amendment; reports adopted.

Third Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (9.29 pm)—I move:

That these bills be now read a third time.

As I said during the committee stage, the Fuel Tax Bill 2006 and the Fuel Tax (Consequential and Transitional Provisions) Bill 2006 are certainly good bills for a lot of people. In response to a couple of comments by Senator Allison during the committee stage, I will say that there is no effective excise on biodiesels. Any disadvantage that biodiesel does see is essentially a cost-of-production disadvantage.

The bill does not impact on any of the other incentive programs that the government operates in relation to biodiesel. It is dealing with the taxation treatment of diesel across the board. There is no better demonstration that there is a tax anomaly associated with this than the fact that the B49 biodiesel blend only exists in Australia. I think the comments of Senator Stephens in the committee stage in relation to that are very pertinent. On that note, I commend the bill to the Senate.

Question agreed to.

Bills read a third time.

COMMITTEES

Membership

The DEPUTY PRESIDENT—The President has received a letter from party leaders seeking a variation to the membership of committees.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (9.31 pm)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

Community Affairs Legislation Committee—

Appointed—Substitute member: Senator Siewert to replace Senator Nettle for the committee’s inquiry into the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006
Community Affairs References Committee—
   Appointed—Participating member: Senator Fierravanti-Wells

Economics Legislation Committee—
   Appointed—Participating member: Senator Nash
   Substitute member: Senator O’Brien to replace Senator Webber for the committee’s inquiry into the price of petrol in Australia

Employment, Workplace Relations and Education Legislation Committee—
   Appointed—Substitute member: Senator Bernardi to replace Senator Barnett for the committee’s inquiry into the provisions of the Independent Contractors Bill 2006 and the Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006 for the period 2 August to 4 August 2006

Procedure Committee—
   Discharged—Senator Ellison from 22 June 2006, and Senator Coonan from 11 August 2006
   Appointed—Senator Coonan from 22 June 2006, and Senator Ellison from 11 August 2006

Question agreed to.

LEAVE OF ABSENCE

Senator EGGLESTON (Western Australia) (9.32 pm)—by leave—I move:

That leave of absence be granted to Senator Ronaldson for 22 June and 23 June 2006 on account of family matters, and to Senator Trood for 22 June and 23 June 2006, on account of parliamentary business overseas.

Question agreed to.

BUDGET

Consideration by Legislation Committees

Additional Information

Senator EGGLESTON (Western Australia) (9.32 pm)—On behalf of the chair of the Employment, Workplace Relations and Education Legislation Committee, I present additional information received by the committee relating to the hearings on the 2005-06 budget and additional estimates.

PETROLEUM RESOURCE RENT TAX ASSESSMENT AMENDMENT BILL 2006

PETROLEUM RESOURCE RENT TAX (INSTALMENT TRANSFER INTEREST CHARGE IMPOSITION) BILL 2006

Second Reading

Debate resumed from 14 June, on motion by Senator Kemp:

That these bills be read a second time.

Senator STEPHENS (New South Wales) (9.34 pm)—On the whole, the Petroleum Resource Rent Tax Assessment Amendment Bill 2006 and the Petroleum Resource Rent Tax (Instalment Transfer Interest Charge Imposition) Bill 2006 provide some useful modifications to the petroleum resource rent tax regime. They also bring the regime into the self-assessment system.

Schedule 3, in relation to closing down costs, is more problematic and is the reason that Labor insisted the bill be reviewed by the Senate committee. This measure has been introduced before and was rejected by the parliament. I will go into the reasons for that in a moment.

Firstly, I will make some comments in relation to the PRRT regime. It is a tax on profits derived from petroleum projects. It is assessed on a project basis, and the liability to pay petroleum resource rent tax is imposed on a taxpayer in relation to their interest in the project. That liability is based on the project’s assessable receipts less the project’s deductible expenditures. A regime allowing the transfer of unused exploration expenditure between petroleum projects, provided that continuity of ownership is maintained, was introduced on 1 July 1990.

I would like to refer to the revenue projections for this tax in the budget. Budget Paper
No. 1, in statement 5, indicates that PRRT revenue is expected to grow to $4 billion in 2009-10. It is currently estimated to be $1.4 billion. Some of that is price driven, but there is clearly a quantity response, with demand for energy products surging in some parts of the world. This is clearly becoming a major source of the tax base. As such, any measures that erode or risk undoing that base are of great concern, and any economically responsible government would seek to minimise leakages from that growing tax base.

Schedule 1 to this bill amends the PRRT Act to require petroleum resource rent tax taxpayers to transfer and deduct transferable exploration expenditure when calculating their PRRT quarterly tax instalment for each instalment period. Currently, PRRT taxpayers can only transfer and deduct exploration expenditure at the end of the year of tax. This measure should reduce compliance costs for businesses in transferring expenditure between projects. The new interest charge imposed on this sector is relevant to this schedule. It will recoup the time value of money associated with the transfer of the exploration expenditure between periods which is subsequently reversed by the ATO after an audit process.

Schedule 2 to this bill amends the PRRT Act to allow internal corporate restructuring within company groups to occur without losing the ability to transfer exploration expenditure between the petroleum projects of group members. The problem lies in clause 31 of the schedule to the PRRT Act, which states that the loss can only be transferred between companies in the corporate restructuring if the company to whom the loss is being transferred held an interest in the loss company from the start of financial year in which the exploration expenditure took place until the end of the year in which the transfer takes place. It is a strong test. It does not allow the companies in a common group to transfer losses between petroleum exploration projects at a time after which the restructure takes place.

The new provision relaxes the test to allow companies to simply have common ownership at the start of the year of the expenditure and common ownership in the year when the unused exploration expenditure is transferred to the receiving interest and used. This allows for the transfer of the loss to occur at some time after the corporate restructuring. Labor supports this measure, which will reduce costs to businesses in the cases of corporate restructuring.

I want to turn now to schedules 4 and 5 and then return to schedule 3. Schedule 4 to the bill amends the PRRT Act to apply the self-assessment regime to PRRT taxpayers as it generally applies to income tax. This change will result in PRRT taxpayers fully self-assessing their PRRT liability payable. This change also enables PRRT taxpayers to obtain binding rulings from the ATO on the application of the PRRT Act. While bringing the PRRT into the self-assessment regime seems to accord with the broad self-assessment approach of taxation policy in Australia, the question needs to be asked why this is only being done at this point. If petroleum explorers needed this protection, why is it being done now and not many years ago?

However, the more significant question is why a major oil exploration company, with all its resources, needs to enjoy protections that individual taxpayers enjoy under the self-assessment system. The recent review of self assessment provides taxpayers with greater certainty and reduced periods over which their affairs can be audited by the tax office. A lower charge is applied for shortfalls between the tax return lodgment and the ATO assessment. This has been undertaken
to rebalance the rights more in favour of taxpayers in their affairs with the ATO. The major oil exploration companies do not need such protections. Labor has sought to explore this question in the Senate committee process. Schedule 5 to this bill amends the PRRT Act to allow the deductibility of fringe benefits tax for PRRT purposes, introduce a transfer notice requirement for vendors disposing of an interest in a petroleum project, extend the lodgment period for PRRT annual returns from 42 days to 60 days and introduce a number of unrelated minor technical amendments.

Schedule 3 amends the PRRT Act to allow the present value of expected future expenditures associated with closing down a particular petroleum project, where these future expenditures relate to so much of this project as continues to be used under an infrastructure licence, to be deductible against the PRRT receipts of this project. This change is made so far as these costs are currently not recognised for PRRT purposes. This is an extraordinary provision. It relates to ‘closing down’ costs when a project is terminated. Costs from this project are allowed to be offset against revenue until the project ends. But under this provision, the parliament has been asked to support a provision that allows proposed future expenditure of an unsuccessful project to be used as a deduction against PRRT as long as an infrastructure licence is held.

The proposed treatment of platform closing down costs in the assessment of PRRT involves estimating the present value of future closing down costs and claiming them as a deduction before they have been incurred. This treatment violates the fundamental basis of the PRRT: that of a tax based on actual cash flows. Moving from a tax based on actual net cash flows is a dangerous practice. One of the great attractions of the PRRT has been its stability over time. It replaced the crude oil levy that was varied from year to year, and the instability of that crude oil levy created damaging uncertainty for investors.

Labor is dismayed at the Treasury claim in the explanatory memorandum that the proposed changes would not entail any cost to revenue. This is ludicrous. Industry would not be seeking the change if it did not favourably affect profitability. The Treasury assertion is based on an assumption that, in the absence of this concession, all platforms would be shut down at the end of petroleum production and there would be no move to using platforms for processing facilities. There is no basis for making such a blanket assumption. Alternative ways of allowing for actual platform closing down costs to be claimed as a deduction should have been considered that do not violate the cash-flow basis of the PRRT. Once the base of the PRRT is corrupted, the danger is that industry and government will seek further corruption of the PRRT base. This would undermine the stability of the PRRT, unnecessarily increasing sovereign risk to the detriment of both investment and government revenue. Labor does not support this measure.

**Senator MURRAY** (Western Australia) (9.43 pm)—The petroleum resource rent tax in the Petroleum Resource Rent Tax Assessment Amendment Bill 2006 is a tax on net income derived from all petroleum projects in the Commonwealth offshore areas, excluding the wonderful North West Shelf project area off the coast of Western Australia, which is interesting of itself. This tax is assessed on a project basis and the liability to pay the tax imposed on a producer company in relation to its interest in the project. The liability is based on the project receipts less project expenditures to get a net amount on which the calculation is made.

It is quite a fat little tax bill. It is 41 pages with five schedules. I agree with the report
on this bill that the amendments in the bill are mostly—they do not use the word ‘mostly’, I do—intended to reduce compliance costs, improve administration and remove inconsistencies. I particularly like schedule 2, which allows internal corporate restructuring within company groups to occur without losing liability to transfer exploration expenditure between the petroleum projects of group members. However, I am very alert to the fact that schedule 3 has been a problem for three years. Labor have again indicated their disbelief at calculations which indicate no revenue loss as a result of a change in the PRRT to allow the present value of expected future expenditure associated with closing down a particular petroleum project where those future expenditures relate to so much of this project as continues to be used under an infrastructure licence, to be deductible against the PRRT receipts of this project. Having listened to that, if anyone thinks old-fashioned lawyers can convolute the English language, they have nothing on people who talk about tax.

This relates to closing down costs; when a project is terminated, costs from this project are allowed to be offset against revenue. The parliament has been asked to support a provision that allows proposed future expenditure of an unsuccessful project to be used as a deduction against PRRT as long as the infrastructure licence is held. However, the expenditure would not even have been made and yet the deduction is able to be claimed. So, in our view, the definition of expected expenditure is loose and needs clarification. The only thing I can ask is that Treasury keeps an eye on this one and reports back to the parliament if it is found that its hopes are less than realised and the costs are greater than expected.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.46 pm)—I would like to thank the senators who have taken part in this debate on the Petroleum Resource Rent Tax Assessment Amendment Bill 2006 and the Petroleum Resource Rent Tax (Instalment Transfer Interest Charge Imposition) Bill 2006. The Petroleum Resource Rent Tax Assessment Amendment Bill 2006 implements a range of changes and improvements to Australia’s primary offshore petroleum taxation system, with effect from 1 July 2006. Schedule 1 to this bill amends the Petroleum Resource Rent Tax Assessment Act 1987 to require taxpayers to transfer and deduct transferable exploration expenditure when calculating the petroleum resource rent tax quarterly instalment. Currently, of course, this expenditure can only be transferred and deducted at the end of the financial year.

The Petroleum Resource Rent Tax (Instalment Transfer Interest Charge Imposition) Bill 2006 ensures constitutional validity of an instalment transfer interest charge. This charge is designed to recoup the time value of money associated with the transfer of exploration expenditure in working out a quarterly instalment of tax that is subsequently reversed. It relates to the measure contained in schedule 1 to the Petroleum Resource Rent Tax Assessment Amendment Bill 2006. Schedule 2 to the Petroleum Resource Rent Tax Assessment Amendment Bill makes amendments to allow internal corporate restructuring within company groups to occur without losing the ability to transfer exploration expenditure between the petroleum projects of group members. Currently, some company groups maintain inactive companies in order to protect their future ability to transfer unused exploration expenditure.

Schedule 3 to this bill allows the present value of expected future expenditures to close down an infrastructure facility associated with a particular petroleum project to be deductible against the petroleum resource
rent tax receipts of this project. Schedule 4 to the bill applies the self-assessment regime to petroleum resource rent tax taxpayers, as it is generally applies to income tax. This will result in petroleum resource rent tax taxpayers fully self- assessing their liabilities, and it will also enable them to obtain binding rulings from the Australian tax office.

Schedule 5 introduces several unrelated amendments to petroleum resource rent tax, including the following three primary amendments. Firstly, payment of fringe benefits tax will be a deductible expense for petroleum resource rent tax purposes, and this is consistent with the income tax treatment of these payments. Secondly, vendors disposing of an interest in a petroleum project will be required to provide a transfer notice to the purchaser of the project, setting out relevant information such as the amount of undeducted expenditure available. This is designed to encourage better provision of available information between vendors and purchasers transferring an interest in a petroleum project. Unlike income tax, the purchaser inherits the vendor’s petroleum resource rent tax position. Finally, the lodgment period for petroleum resource rent tax annual returns is extended from 42 days to 60 days, which will ease compliance costs for petroleum resource rent tax taxpayers.

The amendments in these bills reduce compliance costs, improve administration and remove inconsistencies in the Petroleum Resource Rent Tax Assessment Act 1987, improving the efficiency of the tax. Furthermore, the bills contain positive amendments that are consistent with the government’s overall approach to taxation reform, directed at simplifying Australia’s tax system and making the system internationally competitive.

I want to take up an issue that Senator Stephens mentioned in her contribution. The Labor Party has expressed concerns about allowing the estimated future value of closing down costs to be a deduction for petroleum resource rent tax purposes when a production licence converts to an infrastructure licence. The government notes that the current law takes account of estimated future closing down costs for petroleum resource rent tax purposes at the time when a production licence converts to an infrastructure licence in particular circumstances.

The amendments ensure that these costs are taken into account in all circumstances—that is, the amendments remove a tax disincentive against continuing to use project facilities under an infrastructure licence to ensure all circumstances are taken into account. Consequently, the amendments ensure that project facilities are used in the most efficient manner possible and are not closed down early or unnecessarily for tax reasons. Further, the amendments encourage the development of marginal petroleum resources located near existing facilities. So the Labor Party’s comment—conveyed to the chamber by Senator Stephens—that the petroleum resource rent tax is currently based in actual cash flows is not correct. A feature of the petroleum resource rent tax since its inception in 1987 has been that both revenues and expenditures are based on estimates in particular circumstances. For the reasons that I have mentioned in my summing up comments, I commend these bills to the Senate.

Question agreed to.

Bills read a second time.

Third Reading

Bills passed through their remaining stages without amendment or debate.
TAX LAWS AMENDMENT (2006 MEASURES No. 3) BILL 2006
NEW BUSINESS TAX SYSTEM (UNTAINTING TAX) BILL 2006

Second Reading
Debate resumed from 15 June, on motion by Senator Kemp:
That these bills be now read a second time.

Senator STEPHENS (New South Wales) (9.54 pm)—The Tax Laws Amendment (2006 Measures No. 3) Bill 2006 and associated bill involve a raft of measures associated with extending concessions in some areas, modifying definitions, correcting errors and, in one case, overriding a major decision of the full Federal Court. The first two schedules of the Tax Laws Amendment (2006 Measures No. 3) Bill 2006 are important to the people whose lives have been devastated by the effects of Cyclone Larry, which hit far North Queensland just south of Cairns on 20 March this year. While there was no loss of life, a significant number of homes and businesses in the area were affected and the region was declared a natural disaster zone by the Queensland government.
We recognise that some businesses have not been able to trade due to the cyclone. As a result, some residents in affected areas have had to rely on income support from Centrelink. These measures ensure that such support enjoys tax-free treatment, as it should.

The first schedule extends eligibility for the beneficiary tax offset to farmers and small business owners who receive Cyclone Larry income support payments. The Cyclone Larry income support payments provide income support to farmers and small business owners whose income has been adversely affected by Cyclone Larry. They are equivalent to the maximum rate of the Newstart allowance and, as we know, are administered by Centrelink.

Businesses have also received cash grants to make up for loss of trade. The second schedule provides tax-free status for certain Australian government payments to businesses adversely affected by Cyclone Larry. Payments of $10,000 will go to businesses that have been adversely affected, and those businesses that can show significant losses can receive up to $25,000. Without this assistance, some small businesses would need to close down, with loss of jobs and dislocation of people’s lives. Labor are firmly committed to assisting these small businesses and give this measure our complete support. Labor also support the reimbursement of any excise paid on diesel or petrol fuel used by businesses for generating their own electricity until normal services are restored.

Schedule 3 is a similar measure that ensures that persons affected by drought will also receive income support in a manner that does not attract tax. It extends eligibility for the beneficiary tax offset to drought affected taxpayers who receive interim income support payments.

The fourth schedule makes a correction to the share-tainting rules as they apply to demutualised entities. The simplified imputation system was part of the government’s business tax reform package, and applied from 1 July 2002. The share capital tainting rules are an integral part of the dividend imputation system. Accordingly, in this bill they have been redrafted and anomalies have been removed in order to integrate them into the new imputation system. Shareholders are taxed preferentially on distribution of share capital. In contrast, shareholders are generally taxed at their marginal tax rate on distribution of profits, with imputation credits available, if appropriate. The share capital tainting rules are integrity rules designed to prevent a company from disguising a distribution of profits as a tax preferred capital distribution by transferring profits to its
share capital account and subsequently making distributions from that account to shareholders.

The opposition supported the original share-tainting rules and supported the redrafting of the dividend imputation system. The objective is that the new tainting rules will remain to act as an integrity measure. It now appears, however, that there was an oversight in the design of those rules when the original share-tainting rules were introduced in 1998—namely, the treatment of companies that were mutuals but which had demutualised. The bill introduces a regime which covers both capital returns made at the time of demutualisation and subsequent returns of capital made by demutualised companies to ensure that they are treated on a comparable basis to other companies. This is needed to create certainty that the integrity provisions of the share-tainting rules will not adversely affect shareholders of demutualised firms.

Schedule 5 exempts the recipients of certain grants from capital gains tax. There are cases when the receipt of such grants can be assessable income or an assessable capital gain. This bill simply clarifies that this is not the case in the situation of the M4/M5 Cashback Scheme and the Sydney noise insulation project. In addition, some grants to mediation and dispute resolution schemes under the new Work Choices laws are to receive this treatment. This schedule exempts the unlawful termination assistance scheme and the alternative dispute resolution assistance scheme grants from capital gains tax provisions. Labor supports the measure in defence of employees in dispute with their employer or contemplating unlawful termination actions. However, there seem to be insufficient integrity measures to ensure that these vouchers are properly used. Quotations from the hearings into the bill are quite relevant to this fact. Senator Webber asked of the department:

When they take their voucher along to this person that they have found, how do you determine how much money you pay? It says ‘up to $4,000’.

The response from the department was:

The provider would remit the invoice to the department for payment on behalf of the applicant and that invoice would need to set out the services that have been provided.

Senator Webber then asked:

Yes, and you will just pay on submission of that invoice?

The answer was, ‘Yes.’ It seems that insufficient safeguards are in place to ensure that the Commonwealth is not being billed $4,000 for all matters, even those which can be dismissed in 10 minutes as not having a prima facie case. Labor suggests that the department should investigate options to ensure that the voucher is only used for hours genuinely billed on a commercial basis.

Schedule 6 will provide a tax offset to certain taxpayers who, in the year in which they receive a significant eligible lump sum payment in arrears, have become liable for the Medicare levy surcharge or an increased Medicare levy surcharge liability due to the receipt of a lump sum payment in arrears. The amount of the offset will be the amount of the increased Medicare levy surcharge liability created by the receipt of that eligible lump sum. In cases where receipt of the lump sum payment in arrears alone results in the taxpayer’s spouse having a Medicare levy surcharge liability, the spouse will also be eligible for the offset.

Schedule 7 allows the commissioner to require superannuation providers to report prescribed information that is reasonably necessary to assist in the administration of the superannuation guarantee arrangements. The information that superannuation providers will be required to report are details of
employer and total contributions. Where amounts are transferred between superannuation funds or retirement savings accounts, the transferring superannuation provider must provide the receiving superannuation provider with equivalent information. This is a measure that Labor has supported in the past. The next schedule excludes from reporting fringe benefits provided in order to address certain security concerns relating to the personal safety of an employee or an associate of the employee arising from that employee’s employment.

Schedule 9 provides that funding credits can only apply to reduce tax on contributions that are used to fund liabilities that were accrued prior to 1 July 1988. These amendments apply to the use of funding credits on or after 9 May 2006. In addition, any new or outstanding objections or requests for amendment to past assessments will only be able to amend funding credit use for the year or years up to the amount that can be claimed under the new tax law. It is not clear how this costing has been arrived at or what the impact on state superannuation schemes will be. That was part of the investigation pursued by the committee.

Schedules 10 to 12 introduce some changes to the rules that apply to charities. Schedule 10 amends the definition of the word ‘enterprise’ in both the GST act and the ABN act so that non-charitable public ancillary funds and prescribed private funds can obtain an ABN and will, where applicable, be entitled to be endorsed as income tax exempt. This amendment will also ensure that the DGR status of non-charitable public ancillary funds and prescribed private funds is maintained and that these entities can receive input tax credits for GST included in their acquisitions and importations. Labor supports this, but I add that the government is punishing some apprentices in relation to the ABN system.

The next schedule streamlines current DGR specific listing arrangements and provides a more consistent framework for assessing applications for DGR status. Funds, authorities or institutions that meet the criteria for the categories of war memorials, disaster relief, animal welfare, charitable services or educational scholarships will be eligible for endorsement as a DGR under one of these new general categories. Labor has consulted with major charities and has been informed that this measure is generally supported. However, Labor wants the charities to have the opportunity to express their own views and, accordingly, Labor referred it to the committee.

Schedule 12 of the bill amends the GST act to clarify that GST concessions are available to an entity only if it operates a fund, authority or institution that has gift deductible status, and it does not apply to the activities of the entire entity: that an entity that supplies a thing as a gift to an entity that operates a fund, authority or institution that has gift deductible status may have an adjustment under division 129 of the GST act if the gift is made other than for the principal purpose of the endorsed fund, authority or institution; and that charitable retirement villages must be endorsed by the commissioner in order to access the GST charitable retirement village concession under section 38-260 of the GST act. Although Labor understands that charities are not uncomfortable with this measure, the speed at which the bill has proceeded in the parliament creates the need for this schedule to have been considered by the committee.

The 13th schedule clarifies that the repeal of the six-year amendment period for general antiavoidance amendments only applies to assessments for the 2004-05 income year and later income years. Labor supports the correction and asks the Assistant Treasurer to make all efforts to clean up the act. Treasury
has made some technical errors in this regard in the past.

The next schedule is vital to the wine industry. From 2006-07, each wine producer or group of wine producers will be able to claim up to $500,000 in WET rebates each year. This measure provides assistance to the wine industry at a critical time, and Labor supports it. However, there is a major problem in this measure, because it means that more funds will flow under the scheme to New Zealand producers.

The final schedule of the bill deals with the GST treatment of residential properties. These amendments ensure that supplies of certain types of real property are input taxed to confirm the policy intent that the words ‘residential’ and ‘residence’ are not limited to extended or permanent occupation; confirm that residential premises which have only previously been sold as commercial residential premises or as a part of commercial residential premises are still regarded as new residential premises; and confirm that the supply of accommodation provided to individuals in commercial residential premises by an entity that owns or controls the premises remains subject to the GST. These amendments apply to net amounts for tax periods that commence on or after 1 July 2000.

Labor is of the view that the evidence presented by the Treasury officials at the hearing and as outlined in the report seemed to conflict with the material provided in the explanatory memorandum in section 15.4. The inquiry reports state that Treasury representatives commenced their evidence by pointing out that the Marana decision was not focused on the key issues discussed by the committee. The Marana decision was about related issues around when something is a new residential property. It dealt with a situation where an old motel was converted into strata title units, so it was quite a specific case. As part of that, the court made some comments about what residential property might be as opposed to what new residential property might be. As such, the comments were obiter dicta. If this issue was purely obiter dicta, why has the government sought to legislate on this matter?

Statements in the explanatory memorandum that indicate that as a result of the Marana decision certain taxpayers would be advantaged or disadvantaged is not consistent with the interpretation of obiter dicta proffered by officials. The explanatory memorandum tabled by the minister is a document of notes to the courts on the interpretation of taxation law so it carries greater weight than the oral testimony given by officials at a hearing. Labor request that the minister address the issue of a potential conflict between the evidence given and the material stated in the explanatory memorandum.

In addition, Labor calls on the government to publish the number of taxpayers who have entered into relevant investments since the time of the Marana decision and 27 February 2006 and who have successfully made an input tax credit claim with the ATO. Labor calls on the minister to request from the Commissioner of Taxation advice as to whether he can use his discretion to grant rate relief to such taxpayers and publish this advice. In the event that the government is not prepared to make such material public, Labor would ask the government to consider the introduction of measures to grant relief to taxpayers who have entered into relevant investments since the time of the Marana decision and who have successfully made an input tax credit claim with the Australian tax office.

Senator MURRAY (Western Australia) (10.09 pm)—I seek leave to incorporate my remarks.

CHAMBER
Leave granted.

The speech read as follows—

The purpose of the Tax Laws Amendment (2006 Measures No. 3) Bill 2006 is to implement a number of disparate legislative taxation measures to achieve a range of Government policy outcomes.


Schedule 1 extends the beneficiary tax offset to Cyclone Larry income support payments, and Schedule 2 provides assistance for affected businesses.

It is hoped this level of taxation assistance for those hit by Cyclone Larry will help get the small businesses and the banana producers in that region back on their feet. These two measures are not contentious.

Schedule 3 is an extension of the beneficiary tax offset. It extends eligibility for the tax offset to those affected by drought and in receipt of interim income support payments. As the drought drags on and affects so many areas of Australia, this offset extension is appropriate.

Schedule 4 - this schedule amends the Income Tax Assessment Act 1997 to ensure that a company’s share capital account will become tainted if it transfers certain amounts to that account. If it taints its share capital account, a franking debit arises in the company’s franking account. If the company chooses to untaint its share capital account, an additional franking debit may arise and untainting tax may be payable.

Schedule 5 amends the Income Tax Assessment Act 1997 to exempt the recipients of the Unlawful Termination Assistance Scheme and the Alternative Dispute Resolution Assistance Scheme which have been set up under the WorkChoices Legislation.

The scheme provides a worker with a voucher to be used to pay for legal representation (up to a capped amount) at either of these tribunals. In providing these voucher payments, these could be considered to be a ‘capital gain’ for the purposes of income tax, so this amending schedule excludes them (and any expense-reimbursing government grant) from any CGT. It applies to a capital gain or a capital loss from any expense-reimbursing government grant.

The amendments proposed in Schedule 5 arise because the Government’s WorkChoices legislation was rushed through the Parliament without sufficient preparation and scrutiny, so that aspects like this must be dealt with at a later date.

Pursuant to the WorkChoices legislation, employees who have been terminated are provided with a voucher to be used to pay for legal representation at the Unlawful Termination Tribunal or the Alternative Dispute Resolution.

These vouchers only provide a certain level of financial assistance and when the voucher payment runs out, the cost of representation has to be carried by the terminated employee. This could have a dampening effect on any worker from pursuing a claim further than the initial voucher payment.

We all know that if an employer is unscrupulous enough to treat an employee badly, and terminate them unlawfully, then there is every chance that they will go on and attempt to ensure that the worker’s Government voucher is expended well before the resolution of the matter.

This amending schedule ensures that the voucher payment is not considered a ‘capital gain’ for the purposes of income tax, so that the terminated worker is not penalised by being out of a job and then taxed on the ‘windfall’ of being allocated a voucher to defend his or her rights.

The amendment is a fair outcome for the worker in the circumstances but the system which gives rise to the necessity for this amendment is not.

Schedule 6 affects the Medicare Levy surcharge lump sum payment in arrears offset. It amends the Income Tax Assessment Act 1997 to provide an offset to certain taxpayers in respect of their Medicare levy surcharge liability where that liability arose, or significantly increases, as a result
of the taxpayer receiving an eligible lump sum payment in arrears. The Democrats support this – because just because you get a lump sum, it does not mean that you are necessarily a high income earner, and the levy surcharge is not supposed to penalise those who receive a one-off payment.

Schedule 7 amends the Superannuation Guarantee (Administration) Act 1992 to require superannuation providers to report details of superannuation contributions to the ATO. This amendment is necessary because of the abolition of the superannuation surcharge and its attendant reporting requirements to the ATO. This simply reinstates those SG reporting requirements.

Schedule 8 is the exclusion of fringe benefits to address personal security concerns. This amends the Fringe Benefits Tax Assessment Act 1986 to exclude from reporting fringe benefits provided to address certain security concerns relating to the personal safety of an employee or an associate of the employee, arising from the employee’s employment.

This applies to a police officer who may be subjected to a credible threat through his employment, and he and his family are provided with certain types of cars, personal safety devices, telephone upgrades and so on in reaction to the threat.

Schedule 9 affects pre-1 July 1988 funding credits. Schedule 9 is to prevent the inappropriate use of pre-1 July 1988 funding credits by ensuring that superannuation schemes can only use them to reduce their tax liability in respect of contributions made for the purpose of funding benefits that accrued before 1 July 1988, and to allow regulations to be made to implement policy. This amendment ensures that funding credits can only be used to reduce tax on contributions made in respect of pre-1 July 1988 benefits.

Schedule 10 allows certain funds to obtain an ABN. This schedule deals with Public Ancillary Funds and Prescribed Private Funds which are established for philanthropic purposes. Currently because they are not an ‘enterprise’ for the purposes of the GST and ABN Acts they are not entitled to have an ABN with all the ancillary taxation implications of not having an ABN. This amendment is to ensure they can get an ABN so that PAFs and PPFs can be exempt from income tax and receive input tax credits for GST paid and other GST benefits. Although this is not contentious, this is another example of the messy taxation arrangements surrounding deductible gift recipients and charitable organisations.

Schedule 11 provides for new deductible gift recipient categories. This amends the Income Tax Assessment Act 1997 to create five new general categories of DGR. The new categories are war memorials, disaster relief, animal welfare, charitable services and educational scholarships. I am sure these new categories have merit and are deserving of the status being bestowed upon them. However, as I have previously brought to the attention of the Senate, the not-for-profit sector and DGR status are matters which should be properly regulated by a disinterested Commission.

In the current system, an entity could have DGR status one moment, and lose it the next, on the decision of a Minister. Or, an entity may not have DGR status, then lobby the Government and lo and behold, their status is changed by legislation. This really is not good public policy.

I prepared a Parliamentary Discussion Paper and distributed it to all members and senators with the aim of encouraging agreement as to the need for overall reform of the not-for-profit sector. Certain aspects of the NFP sector and the types of entities and structures which can claim tax relief need to be more transparent and better regulated. As I have pointed out in that Discussion Paper, the heavy public investment through indirect tax expenditures and tax concessions and the direct government expenditure given to Not-for-Profits really requires compliance with advanced integrity, reporting, and accountability standards. Because NFPs play a large part in the provision of government services, the private provision of public services, and the representation of public and community interest groups, their regulation needs to be more systematic to safeguard the public interest.

The public interest is not served when new categories of DGRs are just popped into an omnibus piece of taxation legislation with 15 schedules.
There is no other sector of society which is still able to conduct its business (and I use that term advisedly) without an overall coherent framework of regulation. Such a framework should meet the standards of regulation which apply to other sectors of our economy and society.

I think it is clear from the ATO seeking to have these new categories of DGR’s declared that a lot of time and effort is put into this area by the Taxation Office, and although they willingly undertake the work, their preferred position, hinted at on occasions, is that this is something that should be determined by an independent body and should not be something which continues to be within its purview.

There has been some controversy over Schedule 12 that deals with the GST Treatment of Gift deductible entities. The main thrust of Schedule 12 applies to retirement villages, and that they must be endorsed as ‘charitable retirement villages by the ATO to access the GST charitable retirement village concessions. This is an understandable clarification especially in light of the fact that there are an increasing number of ‘over 55’ real estate complexes popping up all over the country.

This amendment clarifies that GST concessions are available to an entity only because it operates a fund, authority or institutions that have DGR status and does not apply to the entity as a whole. That is, the GST charity concessions apply as originally intended.

It also clarifies that charitable retirement villages must be endorsed by the ATO in order to access the GST charitable retirement village concession under s38-260 of the GST Act. This may be partly in reaction to some Local Councils who have complained about retirement villages being declared charities and therefore not being liable for land tax and so on. This would reverse that position – hopefully it means that retirement villages that are sold as tax effective investments for the well-heeled retiree cannot take advantage of land tax exemptions etcetera unless they are formally endorsed by the ATO.

Schedule 13 has a technical clarification of time for certain amended assessments. Previous Tax amendments covered the period following the lodgement of tax returns that the ATO could take action. The Treasurer announced that it would apply to assessments from the 04-05 income year and thereafter. However although that Act reduced the period for review from 6 to 4 years, it did not state a particular application date. This clarifies the application date.

As the Senate knows I have argued consistently against the Wine Equalisation Tax in favour of volumetric taxation.

Schedule 14 increases the wine equalisation tax producer rebate from $290,000 to $500,000 and is another short term reaction to a long term problem. Those who were seeking a negative gearing tax advantage by investing heavily in vineyards as a tax break are in no small way responsible for the current state of the market and this rebate may provide short term assistance to wine producers but little else.

This rebate has the effect that small wineries do not pay any tax on the first $1.7 million in sales.

A more considered approach to the problem is needed and the Rural, Regional and Transport Committee made some recommendations for the industry regarding unconscionable conduct and the drafting of a mandatory Code of Conduct to regulate the sale of wine grapes.

Economic support for any part of the industry, such as small wine farmers, should be via grants or rebates. It should not be via discriminatory tax exemption. I am supportive of measures to boost the economic circumstances of regional communities through encouraging tourism and through maintaining small business wine farmers on the land, but I do not think it should be done through tax exemptions; I think it should be done through grants or rebates.

I take issue with the wine equalisation tax. I have been against it from the start—although I should note that my party was not—because it has created a low-price cheap alcohol cask market that is at the centre of alcohol abuse and because as a value-added tax it punishes the premium and small business bottled wine sector.

Why not create a system in which the wine industry is assisted in a sensible, ongoing way through industry support, rather than distorting the excise system so that wine industry support ends up as a greater priority, and pricing wine casks so that the appalling alcohol abuse in some Indigenous
communities, including in my state, can be lessened through price mechanisms. This is evidence of a short-term approach being taken to a problem, rather than a long-term, considered plan to maintain the viability of the industry.

Cheap cask wine is at the centre of alcohol abuse, which in turn is a cause of family and domestic abuse. Price affects alcohol consumption. A simple change in the way the excise is levied has the potential to change consumer habits. The government should take that step, and support it with advertisements, family assistance programs, housing programs, health programs and so on. Voluntary taxation of wine is, in the long term, the way to go.

Schedule 15 is to ensure that following the decision in Marana Holdings Pty Ltd v Commissioner of Tax, to clarify that supplies of certain types of real property are input taxed. In Marana the Full Federal Court decided: That the sale of a unit which was previously a room in a motel was the sale of new residential premises for the purposes of the Act and therefore subject to the GST; and

Consider that the terms ‘reside’ and ‘residence’ connoted a permanent or at least long-term, commitment to dwelling in a particular place.

One concern was about this Schedule 15’s retrospective application, but the Senate Scrutiny of Bills Committee saw no concern worth noting because of low or beneficial impact. I gather from the evidence given to the Committee that the number of investors to be impacted by this change will be small, but the work involved in reworking their taxation returns is not inconsiderable.

I note the evidence from the Real Estate Institute of Australia was that they had been in discussions with the ATO about redrafting GSTR2000/20 to reflect the Marana decision and that based on the proposed redrafting, people had made investments.

I agree with the Committee that when making investment decisions that the law as it stands at the time is the best indicator of what is acceptable, however I have a bit of a problem with the ATO and the Treasury arguing that position, when they are implementing legislation with retrospective application.

The Australian Democrats will be supporting these Bills as they provide some good measures for those in distress and tidy up some loose ends. However the fact that these Bills, with so many schedules impacting on a variety of areas, were passed through the House with little time for consideration and debate shows how essential it is to keep the Committee system in the Senate as vigorous as possible.

These Bills were rushed through the House, and were given only a day for a Senate Committee before being presented to the Senate for debate – and I use that term loosely at this time of the sitting week and year. Such limited scrutiny is better than none, but only just. The issues relating to many of these schedules have not been fully discussed and, given the timeframe, it would have been tough day to introduce amendments if the Committee had found major shortcomings with the bills.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.09 pm)—Given the late hour of this last day of the session I also seek leave to incorporate a summing-up speech.

Leave granted.

The speech read as follows—

To begin with, I would like to thank Senators who have taken part in this debate on the Tax Laws Amendment (2006 Measure No. 3) Bill and the New Business Tax System (Untainting Tax) Bill. This bill implements a number of changes and improvements to the tax laws.

The first measure in this bill extends the eligibility for the beneficiary tax offset to taxpayers in receipt of Cyclone Larry and Cyclone Monica income support payments.

The Cyclone Larry and Cyclone Monica income support payments are provided to farmers and small business owners whose income has been adversely affected by those cyclones.

Applying the beneficiary tax offset to Cyclone Larry and Cyclone Monica income support payments ensures that recipients of those payments are provided a tax treatment consistent with that provided to those receiving Newstart allowance.
The second measure provides additional assistance to businesses that are adversely affected by Cyclone Larry and Cyclone Monica. Payments from the Cyclone Larry Business Assistance Fund and the Cyclones Monica and Larry Business Assistance Fund will be exempt from tax.

Eligible businesses may apply for a one-off grant of $10,000 under the relevant Business Assistance Fund.

Those businesses that can demonstrate significant losses may apply for a higher grant of up to $25,000.

In addition, any excise paid on diesel or petrol used by businesses affected by Cyclone Larry for generating their own electricity until restoration of normal services will be subsidised by the Government. These fuel excise relief payments will also be exempt from tax.

These changes recognise the extraordinary hardship inflicted by Cyclones Larry and Monica and apply to all relevant payments made in the 2005-06 and 2006-07 income years.

The third measure in this bill extends the eligibility for the beneficiary tax offset to drought-affected farmers who receive interim income support payments, as announced in the 2006-07 Budget.

Interim income support payments are provided to farmers in areas where an exceptional circumstances application lodged by a state demonstrates a genuine case for full exceptional circumstances assistance.

Interim income support is available for up to six months while the case for full exceptional circumstances assistance is being considered. These payments will remain taxable but will attract the beneficiary tax offset which will reduce any resulting tax liability.

Applying the beneficiary tax offset to interim income support payments ensures consistency with the taxation treatment of exceptional circumstances relief payments.

The fourth measure represents a further component of the simplified imputation system. The share capital tainting rules are integrity rules that prevent companies from disguising distributions of profits as capital distributions.

The share capital tainting rules will be inserted into the Income Tax Assessment Act 1997 and are broadly consistent with the old rules. Some modifications will ensure that:

- certain amounts transferred from an option premium reserve do not cause a company’s share capital account to become tainted; and
- certain amounts transferred in connection with the demutualisation of an insurance company do not cause the company’s share capital account to become tainted.

The new share capital tainting rules will apply to transfers made to a company’s share capital account from 25 May 2006, the date of introduction of this bill. Some consequential amendments to the old share capital tainting rules will apply from 1 July 1998.

The next measure in this bill provides an exemption from capital gains tax for recipients of the WorkChoices grants.

This measure ensures that recipients of the Government’s Unlawful Termination Assistance Scheme do not incur a capital gain or loss.

The Unlawful Termination Assistance Scheme provides eligible applicants with Government assistance for independent legal advice to assess the merits of their unlawful termination claim.

Similarly, the capital gains tax exemption will apply to the Alternative Dispute Resolution Assistance Scheme. This scheme provides eligible parties with the opportunity to receive alternative dispute resolution services.

This measure will also add a generic provision to expand the capital gains tax exempt status to include other government grants that reimburse expenses. This allows recipients to better utilise their WorkChoices grants and other government expense reimbursing grants.

The next measure in this bill provides a tax offset to taxpayers who have a Medicare levy surcharge liability, or an increased liability, as a result of receiving an eligible lump sum payment in arrears.

This amendment will benefit those taxpayers who are generally not liable for the Medicare levy surcharge.
surcharge but incur a liability in a particular year due to receipt of a large lump sum payment in arrears and those who would otherwise have had to pay a larger Medicare levy surcharge.

The seventh measure in this bill amends the Superannuation Guarantee (Administration) Act 1992 to ensure a superannuation fund or retirement savings account provider continues to report to the Commissioner of Taxation on an annual basis. The required reports will contain details of employer and total contributions made to a superannuation fund account or retirement savings account provider.

The eighth measure in this bill, excludes from the fringe benefits reporting requirements, fringe benefits provided to address certain security concerns relating to the personal safety of employees and their associates that arises from their employment.

This reporting exclusion is being provided because an employee may require certain security services outside of their employment as a result of a credible threat of attack to them or their associates by reason of that employment.

This measure will be backdated to apply from 1 April 2004. As a result of this reporting exclusion, the payment summaries of employees who receive such fringe benefits will not include these amounts.

The next measure in this bill is a revenue protection meeting and will improve the integrity of the taxation system by preventing the inappropriate use of pre 1 July 1988 funding credits.

Funding credits are used by superannuation schemes to reduce their tax liability. They were granted to unfunded or partly funded schemes and were intended to ensure that contributions made to a scheme after 1 July 1988 (when the 15 per cent contributions tax was introduced) to fund benefits that accrued prior to 1 July 1988 were not taxed. This ensured equity with funded schemes.

This measure ensures funding credits will be able to be used only in accordance with the original policy intent. That is, funding credits will be used only to reduce tax on contributions made in respect of pre 1 July 1988 benefits.

The tenth measure in this bill will allow those prescribed private funds and public ancillary funds that distribute to deductible gift recipients that are not charities (such as public ambulance services and research authorities) but are exempt from income tax, to obtain an Australian Business Number (an ABN).

This measure ensures that all prescribed private funds and public ancillary funds that distribute solely to deductible gift recipients which are exempt from income tax, can themselves access an income tax exemption as well as the GST concessions.

The next measure in this bill gives effect to the Government’s announcement in the 2005-06 Budget that it would create five additional deductible gift recipient general categories to enhance philanthropy in Australia.

The new deductible gift recipient general categories cover war memorials, disaster relief, animal welfare, charitable services and educational scholarships.

The twelfth measure in this bill will address the potential exploitation of certain GST charity concessions. The changes in this measure confirm that the GST concessions apply only to deductible gift recipients and not to any non-charitable activities of entities that operate the deductible gift recipients.

This measure also ensures that charitable retirement village operators must be endorsed by the Commissioner of Taxation, like other charities, in order for the GST concessions to apply. This will ensure that the tax law will apply consistently between charities.

The next measure in this bill makes a technical clarification to the Tax Laws Amendment (Improvements to Self Assessment) Act (No. 2) 2005, to ensure that the reduced four year amendment period for income tax assessments involving tax avoidance applies from the 2004-05 income year as announced by the Government.

The fourteenth measure in this bill delivers enhanced assistance for the wine industry under the wine equalisation tax (WET) producer rebate. From 1 July 2006, the maximum amount of WET rebate each wine producer (or group of producers) may claim in each financial year will increase.
to $500,000, compared to the current threshold of $290,000. This will effectively exempt around $1.7 million in domestic wholesale wine sales for a wine producer each year.

The final measure in this bill ensures supplies of certain types of real property remain input taxed under the GST.

This measure amends the GST Act to ensure supplies involving properties such as serviced apartments and strata units leased to hotel operators remain input taxed. This is consistent with the Government’s policy intent and will avoid the need for many small investors to register for the GST.

For the reasons I outlined above, I commend these bills to the Senate.

I would also make a brief comment. Senator Stephens raised the question of whether there was a potential conflict between the evidence given by Treasury and the material stated in the explanatory memorandum. My advice is that there is no conflict between the evidence presented by the Treasury officials to the Senate committee and the explanatory memorandum. They both said that the court decision in Marana was about whether the sale of a unit which was previously a room in a motel was the sale of new residential premises and thus subject to GST. In this decision the court considered what residential property might be.

Question agreed to.

Bills read a second time.

Third Reading

Bills passed through their remaining stages without amendment or debate.

BUSINESS

Rearrangement

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.11 pm)—I move:

That intervening business be postponed till after consideration of government business order of the day no. 8 (Health Legislation Amendment (Private Health Insurance) Bill 2006).

Question agreed to.

HEALTH LEGISLATION AMENDMENT (PRIVATE HEALTH INSURANCE) BILL 2006

Second Reading

Debate resumed from 15 June, on motion by Senator Kemp:

That this bill be now read a second time.

Senator McLUCAS (Queensland) (10.11 pm)—I was under the impression that the next piece of legislation was in fact on renewable energy. If the people in the whip’s office are watching they might bring in another piece of paper so that I can make an appropriate contribution to the debate.

Senator Hogg—You could talk about the health of senators.

Senator McLUCAS—I could talk about the health of senators and the sleep deprivation that some of us have to deal with. Essentially this legislation will be supported by the Labor Party, although we will be moving a second reading amendment to the legislation. We have some further amendments to it. Perhaps we can deal with a procedural motion first.

Debate interrupted.

COMMITTEES

Selection of Bills Committee Report

Senator EGGLESTON (Western Australia) (10.14 pm)—by leave—I move:

That the order of the Senate agreed to earlier today adopting the 6th report of the Selection of Bills Committee be varied to provide that the provisions of the Indigenous Education (Targeted Assistance) Amendment Bill 2006 not be referred to the Employment, Workplace Relations and Education Legislation Committee.

Question agreed to.
The bill before the chamber is health legislation Amendment (Private Health Insurance) Bill 2006. This bill makes changes to the Private Health Insurance Ombudsman (PHIO) powers and also makes minor amendments with regard to the administration of the private health insurance rebate by Medicare Australia and the ATO.

This bill will make changes to the PHIO to expand and enhance his powers so that in addition to dealing with consumer disputes with funds, he can now examine issues related to the arrangements between the insurer, the provider of the service, ie the hospital and brokers.

The amendments will allow the PHIO to become involved in the mediation of disputes, although on a voluntary basis only.

This bill will also make the necessary amendments so that:

- The PHIO will be able to direct participation by the subject of a complaint in compulsory mediation
- S/he will be able to mediate between a health fund and a health care provider on his or her own initiative or at the Minister’s request, including directing participation in compulsory mediation;
- The PHIO will have the necessary powers to require the production of records not only from health funds, but also from health care providers and brokers; and
- The PHIO, PHIO staff, external mediators, and persons dealing with the PHIO are appropriately protected from civil and personal liability arising from the increased powers.

The bill also makes an important amendment to the legislation as it inserts an objects clause. This objects clause is important because it ensures that the PHIO will focus on consumer protection, even though the PHIO’s powers are extended to examine issues related to providers.

The last think Labor wants to see in an Ombudsman focusing only on dispute resolution – eg. Contractual disputes – between funds and providers – when its purpose surely should be to focus on how these issues impact on consumers. It is not the ombudsman’s role to act as the referee on pricing and service disputes between funds and providers. That is a job for the parties, themselves and of course, the Department of Health.

The government has stated that the purpose of the additional powers is to increase the effectiveness of the PHIO in resolving complaints and contract disputes.

Labor will support any measures taken to ensure that consumers are protected and have an advocate in the complex and difficult to navigate private health insurance sector.

Labor does, however, have some concerns about the consultation that took place in the lead up to this bill. The industry directly provided their input on this extension of powers. That is appropriate – in fact if, it didn’t occur there would be a real issue and we recognise that they support these changes.

We are aware however, that direct consultations did not include consumers and consumer groups, and the Minister’s request for submissions, through the Private health Insurance Circulars – came only 3 weeks before the deadline for submissions – which coincided with the Christmas week.

One of the biggest issues facing consumers is the affordability of their private health insurance and I would have thought consultation of consumers was integral to finding an agreed position on the PHIO. We know that premiums have been increasing at a rate over twice and three times that of CPI, and this has had the effect of negating the private health insurance rebate. It is important that even with the rebate, we do all that we can to
keep private health insurance affordable and accessible.

This is particularly the case for those who rely on it for access to dental care, because without PHI people who need regular care have been abandoned since the Howard government’s abolition of the Commonwealth Dental Scheme. Indeed, Mr Abbott believes if you can’t afford PHI you should rely on charity to get your teeth fixed.

Returning to the issue of consumer input to these changes to the PHIO; these changes will have no effect on the PHIO’s ability to deal with complaints relating to private health insurance premiums, and the changes will not allow the PHIO to make recommendations on these complaints as it can with other issues.

While the Department has argued that complaints about premium increases have been decreasing, this can be attributed to the PHIO’s lack of power to take any action in this area. While the regulation of annual premium increases is the responsibility of the Private Health Insurance Administration Council, there is no scope for the PHIO to examine, from a consumer’s perspective, the reasonableness of premium increases or the variability from state to state and fund within these states.

Recent evidence has shown that this variability costs fund holders as much as $290 more in some states – with Victorians facing the highest annual premiums for a comparable Medibank Private Hospital policy for a family. This means that Victorians pay up to 25 per cent more than Queenslanders for the equivalent hospital policy – and that Queenslanders pay up to 20 per cent more than their NSW counterparts.

Labor is concerned that the sale of Medibank Private will further add to the variability in the cost of health cover for Australians living in different states. Australia wide, Medibank enjoys a market share of 28.8 per cent and in some states, this concentration is much greater:

- In Queensland – 36.2 per cent
- In Victoria – 38.4 per cent
- In Tasmania – 35.7 per cent
- In NT – 44.3 per cent

This is why Labor is proposing an amendment which builds on some changes being made by this bill which relate to the PHIO’s ability to make recommendations to the Minister and the department. These amendments, which form part of this bill, extend the PHIO’s ability to make recommendations to the Minister or Department regarding disputes and conduct of brokers and providers, in addition to funds, as is already the case.

Labor is supportive of this extension, but would like to see this mechanism extended so that the ombudsman can use these provisions to further investigate premium increases.

This would involve the Ombudsman using his extended powers under this Act, in connection with the Trade Practices Act, so that the PHIO could make recommendations to the minister which would enable him to direct the ACCC to monitor the private health insurance industry’s pricing.

The amendment Labor is proposing not only makes changes to this bill, but also requires some changes to the Trade Practices Act (TPA).

The TPA allows for Price monitoring, whereby the Minister directs the ACCC to monitor the prices, costs and profits of companies and government authorities in relation to specified goods and services and to report the results of the monitoring to the Minister. While this monitoring role has been used infrequently, it has been used in cases where a particular market or sector has undergone some sort of structural change or reform, for example, in the case of the dairy sector.

The TPA also allows for the Minister to direct the ACCC to hold an inquiry into specified matters and report its findings to the Minister who then makes decisions on the recommendations. According to the Productivity Commission report, public inquiries initiated under the PSA have been used for a number of purposes, including:

- To determine whether pricing outcomes reflect competitive market forces and
- To advise the Minister on what types of prices oversight, if any, should be applied to the company or companies under inquiry.

It is important to note that recent changes to the TPA state that prices surveillance is to be applied only in those markets where the Minister believes
competitive pressures are not sufficient to achieve efficient prices and protect consumers.

Labor thinks this will be particularly important following the sale of Medibank, when the sector is sure to see some consolidation and increase in concentration.

It’s important because not only will competition fall, and concentration of market power occur in some states, but we don’t know what the effect on premiums will be, and neither does the Department of Health.

In the recent Budget Estimates hearings, the Department of Health was asked about the effect that the sale would have on premiums. Departmental officials confirmed that they had undertaken no work, no modelling to examine the impact of the sale on the market and on premiums. To our surprise, they also confirmed that they had no intention of finding out what the effect may be.

This is the case even though the Minister for finance and Minister for Health have asserted that this will put downwards pressure on premiums. I am not sure how these Ministers can assert this without any evidence or modelling; if the Ministers want to continue to assert this they must make it clear where this evidence exists or instruct the Department of Health to do the work necessary to find out what the effect will be.

Labor supports the intent of the bill but we need to make the point that it could have done much more to protect health consumers. That’s why Labor will move the tabled amendments to further protect members of Private Health Insurance funds.

I move:

At the end of the motion, add “but the Senate is of the view that the Minister for Health and Ageing stands condemned for failing to:

(a) address the concerns of members of Medibank Private and proceeding with the sale of Medibank Private even though the majority of Australians are opposed to the sale; and

(b) address critical structural weaknesses in the health sector such as workforce shortages and the rising costs of health”.

Senator NETTLE (New South Wales) (10.15 pm)—The Australian Greens oppose the private health insurance rebate because it is a scandalous waste of public money. It is money that should be spent on public health. In the committee stage today, on behalf of the Australian Greens I will move to abolish the rebate.

Earlier this month there was an article titled ‘The injustice of middle-class welfare’ which went into the issue of the private health insurance rebate. It described it as ‘the most poorly designed social policy measure of the past decade’ and as being ‘utterly regressive’ in its manner. In the next financial year, the government intends to waste $3.169 billion of public money on the private health insurance rebate. That is a clear budgetary decision that indicates that the government would rather subsidise the private health insurance industry and the wealthier Australians who access that industry with $3 billion than spend that money on ensuring that all Australians can access a quality public health system based on their medical needs rather than on their capacity to pay.

The Greens believe that we should have a quality, top-class public health system and that abolishing the rebate and redirecting the money into public health is a step that we need to take in order to head us in that direction. The private health insurance rebate has been a massive failure by the government in their responsibility to ensure that all Australians are able to access that quality public health system. Even by the government’s own standards, the private health insurance rebate has been a massive failure. They claimed that it would relieve pressure on the public hospital system, and we have not seen that occur. If, however, the private health insurance rebate was really designed as a mechanism to subsidise the private health insurance industry then they have achieved their goal with extraordinary efficiency. They
have also created an efficient mechanism for both bolstering health cost inflation and transferring health resources to the wealthiest Australians.

The private health insurance rebate has always been a subsidy for the private health insurance industry and the wealthier Australians who access that service. Australian Greens’ research, based on a survey of more than 55,000 Australians by Roy Morgan Research, showed that 19.6 per cent of households with people earning below $20,000 a year have private health insurance, yet for households earning over $100,000 a year the average private health insurance uptake is 63.85 per cent. A recent article in the *Australian Financial Review* outlined some research on this issue by an economist who used data from the ABS. This research showed that more than 80 per cent of people living in areas with the highest socioeconomic index would have purchased private health insurance even if there were no rebate, yet only 10 per cent of people living in the lowest-rating areas would have done the same. The article stated:

The rich-poor ratio is a staggering 8 to 1.

It went on to say:

Those who don’t buy private insurance don’t get the rebate, but they still have to pay taxes, from which the rebate is funded ... The uninsured who use the public hospital system also suffer in at least two ... ways. First, they face a reduced level of services at public hospitals due to underfunding. The amount spent on the rebate could have been used to provide much needed funds for public hospitals.

Australians without private health insurance still require and are entitled to public health care services in our public system, but our public system is put under even greater pressure due to the over $3 billion shift in resources and personnel towards the private system, which has the cash flow to deal with less urgent or optional health care needs.

These are additional arguments to support the Greens’ position that we should transfer the money for the 30 per cent private health insurance rebate to our public health system.

Greens’ analysis of the Roy Morgan data on the uptake of private health insurance in Sydney and Melbourne revealed that there is a massive gulf between the nature of the services provided in affluent regions of the city and those provided in areas where people with lower incomes live. These differences are particularly acute when you compare Commonwealth electoral divisions held by the Labor Party to those held by the coalition. There are also considerable discrepancies in the location of private hospital beds.

The Greens’ research showed that 14 Sydney based federal electorates held by Labor have 1,311 private hospital beds compared to 2,594 beds in seats held by the coalition. This equates to 913 voters per private hospital bed in Labor held seats compared to only 470 voters per private hospital bed in coalition seats. The data also showed the discrepancy in private health insurance cover between Labor and coalition held seats. In the 14 seats held by Labor in Sydney, an average of 27 per cent of the electorate has private health insurance, whilst in 14 coalition seats an average of 48.75 per cent of the electorate has private health insurance cover.

In Melbourne there is a similar story. In the 16 seats held by Labor, 37 per cent of the electorate has private health insurance, while in the seven coalition seats 51 per cent of the electorate has private health insurance cover. We also see the same pattern in private hospital beds. The seven Melbourne based electorates held by the Liberals have 2,135 private hospital beds—that is, 290 voters per private hospital bed. In comparison with the Labor held electorate, there are 3,763 private hospital beds—that is, 381 voters per private hospital bed. This analysis shows that the
private health insurance rebate effectively means that Labor voters in Labor held seats pay for a subsidy that mainly benefits wealthy Liberal voters living in wealthier suburbs.

Given all these facts, it is astounding that the Labor Party continues to support the 30 per cent private health insurance rebate. I have certainly attended meetings with the ACTU where they have been calling for the abolition of the private health insurance rebate, because they are well aware of this discrepancy and are well aware that it is an inequitable subsidy from the government to the private health insurance industry and to wealthier Australians.

It is also noted in the Greens’ analysis that for both Sydney and Melbourne the number of private hospital beds decreases the further the electorate is away from the city centre—a pattern that continues outside of metropolitan areas. Rural Australians do not benefit from the private health insurance rebate. The rebate not only fails people on lower income areas but also particularly fails rural Australians. In rural parts of Australia, private health insurance cover is very low.

On the weekend we heard Nationals leader Mark Vaile at the New South Wales Nationals state conference calling for additional health funding to be directed to rural and regional hospitals. Such additional funding is desperately needed and is something that the Greens and other organisations, like the Rural Doctors Association, have been calling for some time. But, if you look around for those much-needed public health funds, the elephant in the room is the over $3 billion of public health funding that is spent each year on the private health insurance rebate. If the National Party are serious about alleviating the shortage of public health care services in rural and regional Australia—as they talked about on the weekend—they need look no further than the private health insurance rebate and the $3 billion of public funds that sit there and are spent subsidising the insurance industry each year.

The Australian Greens’ research, based on a survey of more than 55,000 Australians by Roy Morgan, showed that the private health insurance rebate was skewed towards subsidising wealthy city based health insurance customers at the expense of their less affluent country counterparts. The research shows that an average of 35 per cent of households in country areas have private health insurance; yet wealthy city seats, like the one held by the health minister in the northern Sydney electorate of Warringah, have a private health insurance uptake of 80.6 per cent.

Low rates of private health insurance in regional areas are hardly surprising when we see that many of these areas have no hospitals and no specialists. The delivery of health services was highlighted in a recent Four Corners program which showed the difficulties that people in rural Australia have in accessing much-needed health services. That program reinforced for the Greens the conclusion that the lack of services leads to a perception that there is little need for people in these communities to take out private health insurance—yet the National Party continue to support a system that does not benefit the people for whom they claim to speak out. The evidence also shows that the private health insurance rebate is a powerful catalyst that drives health cost inflation.

Since 2001 we have seen health insurance premiums rise by nearly 40 per cent. Those people who have enough to pay the health insurance premiums inequitably receive the largest cut of the rebate pie to support and subsidise their private health insurance.

As the Greens have repeatedly said, it is the public health sector that is best able to provide the most efficient and equitable
health services, based on people’s medical needs rather than their financial ability to pay for services. Unfortunately, the current private health insurance rebate policy heads us in the direction of the United States style of a two-tiered health system: one standard and set of rules for the wealthy and a safety net based welfare system for those who cannot afford the exorbitant private health costs.

The government continues to use our public funds to give ever-increasing subsidies to the private health insurance industry. The Greens want to see an end to this inequitable transfer of public funds into the private health insurance industry. The amendments that I shall move in the committee stage of the debate will abolish the rebate by repealing the act that established it and also repealing a related taxation act. They will do so in nine months time, which would give sufficient time for private health fund members to notify their fund if they wish to change or cancel their insurance as a result of the withdrawal of the rebate.

The private health insurance rebate is a shameful waste of public funds—funds used to subsidise the private health insurance industry. Those funds can and should be spent on ensuring that there is a quality public health system for all of us. I can think of no other industry that gets this level of government support. For what other industry does the federal government use our taxation system to penalise people who do not buy the services of that particular industry in the way in which it does for the private health insurance industry? Our taxation system is used to penalise people who refuse to take up the services of the private health insurance industry. Knowing all of the subsidies that this government provides to a range of different industries, I cannot think of another industry that is given that level of support by the federal government. And the people who lose out are poorer Australians and Australians living in rural areas.

People who wish to support an equitable public health system have the opportunity to do so by supporting the Greens amendment to abolish the private health insurance rebate that I will move in the committee stage, so that that money can be spent investing in a quality public health system that all Australians can use regardless of their capacity to pay.

\[Senator\ \text{ALLISON}\ (Victoria—Leader of the Australian Democrats)\ (10.29 \text{ pm})—I seek leave to incorporate my speech on the Health Legislation Amendment (Private Health Insurance) Bill 2006.\]

Leave granted.

\textit{The speech read as follows—}\n
I rise to speak today on the Health Legislation Amendment (Private Health Insurance) Bill 2006. This bill makes changes to the powers of the Private Health Insurance Ombudsman and also makes minor amendments with regard to the administration of the private health insurance rebate by Medicare Australia and by the Australian Taxation Office.

It increases the ombudsman’s power to be able to conduct investigations at their own initiative or at a minister’s request. In addition to being able to deal with disputes between customers and funds, the ombudsman will be able to deal with issues related to arrangements between insurers, the brokers and providers of services—although obviously not clinical matters.

These amendments will also allow the Private Health Insurance Ombudsman to become involved in the mediation of disputes by giving the Ombudsman the ability to compel parties in a dispute to undertake mediation. At the moment the Ombudsman can receive and investigate complaints but can not act to help resolve them. So consumers may still find that they do not get much satisfaction in relation to their complaints.
This measure has the potential to help consumers by providing a much stronger avenue for redress when they feel they have been unfairly dealt with. Although the Ombudsman will be able to facilitate the resolution of disputes through requiring mediation, this bill does not actually give the Ombudsman any power to impose a resolution.

Health insurance is complex and there are many problems. People dealing with health insurance and health care providers are often bewildered by the different products available, the rules that apply to them and the lack of easily understandable and comparable information.

There are of course problems with exclusions and waiting times, difficulties switching funds, and benefit limitations for some treatments. Australians have been pouring money into private health insurance funds for the most part not because the funds themselves are offering better value for money but because the government has coerced and frightened them into it.

Many people across the country are sacrificing other things in life to pay for their private health insurance because they are anxious and concerned that they might not be able to get the health care they need.

The Government has consistently argued that the policies they were introducing would lead to downward pressure on premiums. But that is not what we have seen. People with private health insurance are now paying, on average, premiums up to 40% higher than they were in 2001.

There have been eight successive increases in health insurance premiums, every one of them having been ticked off by the minister.

And this bill may in fact contribute to a further rise in premiums. The Government has suggested that the need for additional resources for the Ombudsman that will result from the extension of its powers as a result of this bill will be funded through a levy on health funds.

It is quite possible that these increased costs to health funds would simply be passed onto consumers in the form of increased premiums. And it is not just ever increasing premiums. Consumers are also facing ever increasing gap fees. Each year, thousands of Australians are forced to fill the gap between the charges of the health care providers and the charges that the health insurance funds cover.

Gap payments to doctors increased by 19.2 per cent in 2003-04, according to the private Health Insurance Administration Council. In July 2005 Minister Abbott launched a report that confirmed that 44 per cent of hospital visits attract a gap of $720 on average.

Gap fees are increasing and consumers frequently do not know they are going to experience these out of pocket expenses or the extent of them.

High gap payments seriously undermine any value in having private health insurance coverage and yet rather than try and get doctors to stick to the Medicare Schedule the Government is simply saying that doctors should let patients know how much money they will have to find on top of their health insurance premiums.

This bill does not have many controversial elements and there is some potential that it will increase the ability of the private health insurance ombudsman to protect the interests of consumers - as such the Australian Democrats will be supporting it.

The Democrats are supportive of any moves that will potentially provide greater consumer protection and given this bill’s provision which places consumer protection front and centre when it comes to the focus of the powers and actions of the Private Health Insurance Ombudsman, we are supportive of the bill.

We do note the concerns that have been raised about the lack of consumer consultation about these changes. It is certainly unfortunate to say the least that there was no consultation with consumers and consumer groups on the proposed changes to a body that is set up to help consumers with health insurance problems.

Senator SANTORO (Queensland—Minister for Ageing) (10.29 pm)—Thanks to those senators who have spoken to this bill this evening—or one senator. I am not sure that I quite got the gist of her remarks, which are based obviously on the politics of class
envy, but nevertheless I suppose we live in a democracy and in a country where opinions, even those as extreme as those expressed by the Greens in this place, are at least listened to and tolerated in the interests of democracy. Certainly the politics of class envy are well and truly alive in this chamber tonight.

I want to speak briefly on this bill. It needs to be restated that the bill does enhance consumer rights, and that is what this bill is all about. It enables the Ombudsman to inquire into the whole privately insured experience, not just the actions of health funds. The Ombudsman will have the power to mediate and resolve consumer complaints about the services of practitioners, hospitals and brokers, and that clearly is the main focus. We are certainly not winding back the role of the Ombudsman; we are expanding it. Consumers will benefit, and the discipline that scrutiny imposes on those who benefit financially from private health insurance will improve the quality of services received.

In the second reading amendment the opposition talked about concerns for members of Medibank Private in relation to the impending sale. I ask the question: are they against breathing new life into a health fund whose ability to operate is shackled by the stifling restrictions of government ownership? Are they saying that a government owned Medibank Private will always be able to make decisions that put customers first and not be a policy plaything of the government of the day? Are they saying that they have discovered a sudden concern for the three million or so members of Medibank Private when Labor would happily dud those members by abolishing the private health insurance rebate and destroy private health, not just the private health insurance as we know it? I suggest that they try telling that to the thousands of Medibank Private members who earn less than $20,000 a year but who do provide for their private health cover in order to have the choice that would be denied by senators opposite. I repeat: thousands of Medibank Private members who earn less than $20,000 a year choose to take out private health insurance in order to enhance their choice. In the interests of brevity and in the interests of time I am more than happy to restrict my comments to those that I have just made. I again stress that this is a bill about enhancing consumer rights and I am very pleased to suggest that it be supported by everybody in this place.

Question negatived.

Original question agreed to.

Bill read a second time.

Debate interrupted.

BUSINESS

Rearrangement

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.33 pm)—I move:

That the question for the adjournment of the Senate not be proposed till after the Senate has finally considered the following bills:

Health Legislation Amendment (Private Health Insurance) Bill 2006
Renewable Energy (Electricity) Amendment Bill 2006
Australian Research Council Amendment Bill 2006

Question agreed to.
HEALTH LEGISLATION AMENDMENT (PRIVATE HEALTH INSURANCE) BILL 2006

In Committee

Bill—by leave—taken as a whole.

Senator NETTLE (New South Wales) (10.34 pm)—by leave—I move Greens' amendments (1), (2) and (3) on sheet 4974:

(1) Clause 2, page 1 (after line 8), at the end of the clause, add:

(2) Items 3 and 4 of Schedule 2 commence on 2 April 2007.

(2) Schedule 2, page 27 (after line 10), at the end of the bill, add:

3 The whole of the Act
Repeal the Act.

(3) Schedule 2, page 27 (after line 10), at the end of the bill, add:

Taxation Laws Amendment (Private Health Insurance) Act 1998
4 The whole of the Act
Repeal the Act.

I do not need to speak further to these amendments. They are to abolish the private health insurance rebate so that that money can be spent on ensuring that we have a quality public health system that all Australians can use.

Senator McLUCAS (Queensland) (10.35 pm)—Very briefly, Labor will not be supporting the proposal from the Greens. It is interesting to see that Senator Santoro at this time of night is harking back to the old, untrue, insightful proposal that Labor will abolish the private health insurance rebate. We are here voting against this proposal, Senator. Just stop the rubbish.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.36 pm)—I want to make a comment as well about one of the minister’s remarks: that those opposed to this bill or to private health insurance are somehow reflecting the politics of envy. I am not sure whether this offends against standing orders but it certainly offends against me. I think there are perfectly logical arguments to be put, and they are being put. They were by Senator Nettle and I have certainly done so in this place. It has got nothing to do with politics of envy of people who can afford or choose private health insurance. It has got nothing to do with that and I object to the minister saying so.

Senator SANTORO (Queensland—Minister for Ageing) (10.36 pm)—If I have caused offence to Senator Allison—I had not heard her speak in relation to the matter that Senator Nettle spoke about—I apologise to her. Having listened to the speech of Senator Nettle, I stand by my remarks. It came across to me as being very much motivated by the politics of envy. As far as I am concerned I stand by those remarks. In terms of the remarks by Senator McLucas, I did not have an indication whether the Labor Party would be supporting Senator Nettle’s amendments. I am glad that you have placed on record your intention to vote against them and I am grateful for that support.

Senator NETTLE (New South Wales) (10.37 pm)—I proudly stand here for the fairness, the equity and the justice that is inherent in these amendments which make sure public funds are spent on public services.

Question put:
That the amendments (Senator Nettle’s) be agreed to.

The committee divided. [10.42 pm]

The chairman—Senator JJ Hogg

Ayes............ 7
Noes............. 47
Majority........ 40

AYES

Allison, L.F. Bartlett, A.J.J.
Brown, B.J. Milne, C.
Senator McLUCAS (Queensland) (10.44 pm)—by leave—I move opposition amendments (1) to (8) on sheet 4989:

(1) Schedule 1, page 6 (after line 7), after item 11, insert:

11A After paragraph 82ZRC(b)

Insert:

(bb) to refer matters to the Australian Competition and Consumer Commission or to other bodies for inquiry;

(2) Schedule 1, page 16 (after line 16), after item 70, insert:

70A of Part VIC (heading) of Division 4

Repeal the heading, substitute:

Division 4—Health Insurance Commission may conduct investigations, refer matters to ACCC or other bodies

(3) Schedule 1, page 21 (after line 32), after item 82, insert:

82A After section 82ZTBB

Insert:

82ZTBC Health Insurance Ombudsman may refer matters to Australian Competition and Consumer Commission

The Health Insurance Ombudsman may on his or her own initiative refer by notice in writing a specified matter or specified matters concerning charges by health care providers to the Australian Competition and Consumer Commission for inquiry and report.

(4) Schedule 1, page 21 (after line 32), after item 82, insert:

82B After section 82ZTBB

Insert:

82ZTBD Minister may refer matters to Australian Competition and Consumer Commission

The Minister may refer by notice in writing a specified matter or specified matters concerning charges by health care providers to the Australian Competition and Consumer Commission for inquiry and report.

(5) Schedule 1, page 21 (after line 32), after item 82, insert:

82C After section 82ZTBB

Insert:

82ZTBE Health Insurance Ombudsman may refer matter to other body

If, in the Health Insurance Ombudsman’s opinion, it is more appropriate for a specified matter or specified matters concerning charges by health care providers to be referred to a body other than the Australian Competition and Consumer Commission, the Health Insurance Ombudsman may refer by notice in writing, that specified matter or
those specified matter to that other body for inquiry and report.

(6) Schedule 1, page 21 (after line 32), after item 82, insert:

82D After section 82ZTBB
Insert:

82ZTBF Minister may refer matters to other body
If, in the Minister’s opinion, it is more appropriate for a specified matter or specified matters concerning charges by health care providers to be referred to a body other than the Australian Competition and Consumer Commission, the Minister may refer by notice in writing that specified matter or those specified matters to that other body for inquiry and report.

(7) Schedule 1, page 21 (after line 32), after item 82, insert:

82E After section 82ZTBB
Insert:

82ZTBG Inquiries by other bodies
(1) If a specified matter is, or specified matters are, referred to another body under section 82ZTBE or 82ZTBF, the other body must, if it agrees to hold the inquiry, appoint by instrument in writing a person to preside at the inquiry.

(2) If the other body is a group of two or more individuals, the Minister must by instrument in writing appoint one of those individuals to preside at the inquiry.

(3) The Minister must, as soon as practicable after confirmation that the other body will hold the inquiry, cause a statement to be tabled in each House of the Parliament specifying that the body will hold the inquiry, and giving the reasons the body, rather than the Australian Competition and Consumer Commission, has been requested to hold the inquiry.

(8) Page 27 (after line 10), at the end of the bill, add:

Schedule 3—Amendment of the Trade Practices Act 1974

1 After subsection 95C(1)
Insert:

(1A) This Part also applies to an inquiry concerning a specified matter or specified matters referred to the Commission under section 82ZTBC or 82ZTBD of the Health Insurance Act 1953.

2 At the end of section 95E
Add “and to protect consumers by holding inquiries referred to it under section 82ZTBC or 82ZTBD of the Health Insurance Act 1953”.

3 After subsection 95G(3)
Insert:

(3A) The Commission must hold such inquiries as are referred to it under section 82ZTBC or 82ZTBD of the Health Insurance Act 1953.

This group of eight amendments that Labor is moving seek to extend the powers of the Private Health Insurance Ombudsman to a broader set of powers than those proposed in the legislation. The first amendment enables the Private Health Insurance Ombudsman to refer matters to the ACCC. The second amendment allows the minister to refer matters to the ACCC. The third amendment allows a matter to be referred—

Senator Allison—Mr Chairman, I rise on a point of order. I cannot hear a thing because there are about 15 conversations going on behind me. If you would not mind drawing attention to that.

The CHAIRMAN—Senator Boswell and Senator Scullion, take your conversations outside, please. Senator Allison is entitled to hear this debate.

Senator McLUCAS—The proposal of the Labor Party is to extend the powers of
the Private Health Insurance Ombudsman even further than what is proposed in the legislation. The amendments allow the Private Health Insurance Ombudsman to refer all matters related to issues within his or her scope. The first amendment suggests that the PHIO can refer matters to the ACCC. The second amendment allows the minister to refer matters to the ACCC. The fifth amendment allows the PHIO to refer a matter to another body. The sixth one allows the minister to refer, if appropriate, a matter to another body.

For this amendment to take effect there also must be an amendment to the Trade Practices Act and in particular to part VIIA, the prices surveillance section of the act. Part VIIA of the TPA allows for price inquiries, price notifications and price monitoring. However, the amendment we are seeking relates only to the ACCC powers to hold and report on inquiries—that is, we are not proposing that the private health insurance market be subject to price notification.

The amendments also will allow the minister to direct the ACCC to hold an inquiry into specified matters and report its finding to the minister, who then can make decisions on its recommendations. Companies are liable to a maximum penalty of 100 penalty points if they increase prices during an inquiry without approval from the ACCC.

Public inquiries initiated under the PSA have been used for a number of purposes in the past, including to determine whether pricing outcomes reflect competitive market forces, to advise the minister on what types of prices oversight, if any, should be applied to the company or companies under inquiry and to play an educative role by bringing information into the public domain, thereby facilitating public understanding of the pricing matters at issue. These amendments, I think, extend the scope of the bill in question. In Labor’s view they will give far more consumer protection, using the Private Health Insurance Ombudsman’s role, than envisaged by the government.

Senator SANTORO (Queensland—Minister for Ageing) (10.49 pm)—The government has considered very seriously the opposition amendments to this bill. However, it cannot support the opposition’s amendments for a number of reasons. Firstly, the Private Health Insurance Ombudsman already has the power, with the complainant’s agreement, to refer a matter to the ACCC or another body if, in the PHIO’s opinion, it could be more effectively dealt with by the ACCC or another body. Also, the Private Health Insurance Ombudsman is already required to consult with the ACCC in relation to restrictive trade practice matters. The opposition’s amendments do not enable the ombudsman to provide more effective consumer protection beyond the measures contained in the bill before the Senate tonight.

Secondly, there is some doubt about whether a constitutional basis exists to allow the ombudsman or the minister to refer, and the ACCC or other body to inquire into, health care provider charges. This is because the ACCC’s prices surveillance role relies mainly on the corporations power, and specific provisions in the trade practices legislation expressly limit the ACCC’s powers to ensure that it remains within its constitutional limits.

Lastly, and most importantly, the ACCC already has a role, under the trade practices legislation, in relation to misleading pricing, price fixing and price surveillance. However, the ACCC is not a price-setting body for retail goods and services. As the health industry is characterised by a large number of participants, monitoring would be extremely costly and is unlikely to be warranted on the
grounds of competition. The proposed amendments could lead to increased charges to the consumers of health care provider services. For the above reasons, we cannot support the amendments that have been moved.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.51 pm)—The Democrats will be supporting these amendments. We think they are a good way of strengthening the bill and will add to accountability.

Senator NETTLE (New South Wales) (10.51 pm)—The Greens also will be supporting these amendments.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator SANTORO (Queensland—Minister for Ageing) (10.52 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

RENEWABLE ENERGY (ELECTRICITY) AMENDMENT BILL 2006

Second Reading

Debate resumed from 1 June, on motion by Senator Ellison:

That this bill be now read a second time.

Senator McLUCAS (Queensland) (10.52 pm)—I seek leave to incorporate my speech in Hansard.

Leave granted.

The speech read as follows—

The Renewable Energy (Electricity) Amendment Bill 2006 makes some administrative amendments to the Renewable Energy (Electricity) Act 2000. Labor will support the bill, but we are very disappointed the bill is merely tinkering with administrative arrangements for renewable energy when greater investment and action is required.

Instead of being a responsible steward for our environment and our economy, this bill shows the Howard Government has put climate change in the too hard basket.

Unfortunately, when Australia needed a responsible, forward thinking and balanced approach to climate change and renewable energy all we got was this weak piece of legislation.

The 2006 Budget did not mention climate change and had no initiatives for clean renewable energy.

This bill is consistent with the Government’s irresponsible approach of doing very little to avoid dangerous climate change.

Climate change is the greatest environmental challenge facing the world.

There is overwhelming scientific evidence that climate change caused by carbon pollution is making Australia hotter, the ocean warmer and our cities and towns drier.

The CSIRO says climate change is directly affecting every city and town’s water supply and threatening the Great Barrier Reef and Kakadu.

And the science is pretty clear that climate change increases the intensity of cyclones and hurricanes. Climate change means we’ll have more category 4 and 5 cyclones.

If climate change is unchecked it will severely damage Australia’s agricultural and tourism industries, while also affecting many Australians through severe weather events and further water restrictions.

There is no doubt that recent steep rises in temperature are down to human activity.

The recent destruction caused by Cyclones Larry and Monica is a reminder of the severe weather we must prepare for at home as our planet warms.

Increases in temperature are predicted to increase prevalence of mosquito borne diseases such as malaria into northern Australia and diseases such as Dengue Fever as far south as Sydney.

If for no other reason, Australia’s self-interest dictates we must support clean, renewable energy. To do so is prudent, and not to do so is irresponsible.
As well as understanding the immediate and long-term threat of climate change, the most important thing to understand about dangerous climate change is that it can be avoided.

If Governments, communities and businesses work together to get us out of the heat trap which is developing around the world we can avoid dangerous climate change.

Humans have become a force of nature. We are changing the climate and what happens next really is up to us.

Climate change has been caused by humans, but thankfully the solutions already exist to address it. We can and should act to prevent the problem now.

That is why the bill before the Senate represents a failure of policy by the Howard Government. By bringing forward a Bill that does nothing to increase the use of renewable energy the Government has failed.

The goal in trying to avoid dangerous climate change is clear. We must avoid dangerous climate change by stopping global temperatures rising by more than 2 degrees.

Renewable energy is universally acknowledged to be an important part of any strategy to avoid dangerous climate change.

However, instead of supporting clean energy projects and supporting smart, efficient technologies, the Howard Government is taking Australia the other way.

Instead of a balanced and prudent approach, the Howard Government is trapped by old-thinking and irresponsible policies.

It's hard to believe, but in Australia there is still no national climate change strategy and, because of the Howard Government’s complacency, Australia is on track to increase its greenhouse pollution by 23% by 2020.

The Howard Government’s complacency over climate change is placing our environment, population health, economy and vital infrastructure at risk.

By doing nothing to increase use of renewable energy, the Government is once again ignoring the threat climate change represents for Australia.

Last month, Senator Campbell said it wasn’t a problem that Australian renewable energy companies had to move off shore to China in order to commercialise their products rather than produce them here.

The company ‘Roaring 40s’ recently announced it won’t proceed with half a billion dollars worth of projects in Tasmania and South Australia.

The company says this is because of the Budget’s failure to increase the Mandatory Renewable Energy Target.

The Howard Government’s policies are destroying Australia’s clean energy industry and jobs in regional Australia.

Just last month, Roaring 40s announced a $300 million deal to provide three wind farms to China. They’re welcome in China, but not in John Howard’s Australia.

Instead of blocking clean energy projects like Bald Hill, the Howard Government should seize the economic opportunities of the worldwide push to clean, renewable energy.

Sadly, the Howard Government’s approach to renewable energy is all about politics and not about Australian jobs or the environment.

The Howard Government is being both irresponsible and very inefficient in its approach to renewable energy.

We have the potential for a stronger renewable energy industry, yet the government’s policies send jobs overseas and cripple our renewable energy market.

It is for this reason I am moving on behalf of the Opposition the second reading amendment that is before the chamber.

If we are to meet the challenges posed by climate change, and adapt to a carbon constrained economy, planning is key. We need to act now for the future of Australian society, Australian jobs and Australian business in the emerging global, clean energy economy.

Australia needs a planned approach towards a modern, clean-energy economy.

The Chair of Rio-Tinto Mr Paul Skinner has recently called for the introduction of market
mechanisms as part of the global solutions to combating climate change.

Mr Skinner confirmed that “ultimately, the challenge for the global political leadership was how the two components – technology and market mechanism – could be brought together for a long term solution”.

Just as science and technology have given us tools to measure and understand the dangers of climate change, so too can they help us deal with them.

The potential for innovation and business investment is immense.

It is about providing the market based stimulus for the deployment and transfer of clean energy technologies, the transfer of which the International Energy Agency has estimated at $27.5 billion dollars worth of carbon credits.

By not ratifying Kyoto, Australia is giving the world a jump-start in this new dynamic global marketplace.

Australian companies are already being disadvantaged now by our exclusion from carbon markets and from the developing renewable energy technology markets.

The investment is simply going elsewhere. Our technology and our know-how are heading to China instead of creating jobs at home.

More and more we are seeing Australian technology, know-how and Australian jobs go overseas.

More and more, our isolation on this issue has become an international embarrassment.

The Kyoto agreement was hailed by the Prime Minister back in 1997 as a 'win for the environment and a win for Australian jobs'. The PM got it right then but he is wrong now.

Labor takes a more sensible, practical approach on this issue.

We acknowledge that the nature of such agreements is that they are a product of compromise and, like almost every international agreement Australia is part of, we do not say it is perfect.

We also need to think beyond 2012, but by not ratifying Kyoto we are excluding ourselves from the negotiating table of future agreements.

Labor believes the Kyoto Protocol is important for the economy, for jobs and for the environment.

The beauty of international instruments such as Kyoto is that they provide a platform for clean energy projects.

The Kyoto Protocol does not tell each country what to do. Instead it provides a stimulus for action against climate change and for clean energy.

Instead of being a responsible steward for our environment and our economy, this bill shows the Howard Government has put climate change in the too hard basket.

The Mandatory Renewable Energy Target was announced in 1997 and implemented in 2001, the Mandatory Renewable Energy Target has helped the deployment of renewable energy projects and technologies.

This has meant the 2010 MRET target of 9,500 GWh of generation is likely to be achieved by the end of 2006.

MRET has stimulated the renewable energy industry, subsidiary manufacturing industries and substantial intellectual property rights that are now being used around the world.

The Government should have taken advantage of this bill to increase and extend the MRET target to 2020. The Government’s own Review Panel, headed by former Government Senator Grant Tambling, recommended that:

MRET targets should increase beyond 2010 at a rate equal to the rate before 2010, and to stabilise at 20,000 GWh in 2020.

To understand why this never happened and why renewable energy is being strangled in Australia, you have to look at the politics of renewable energy and the genesis of the Mandatory Renewable Energy target.

When MRET was first announced it was the Government’s stated intention that it would increase the market share of renewable energy generation as a percentage – to increase market share by 2%.

This is what the Government said:

On the eve of the third Conference of the Parties (COP3) under the framework convention on climate change, the Prime Minister announced that
targets will be set for the inclusion of renewable energy in electricity generation by the year 2010. Electricity retailers and other large electricity buyers will be legally required to source an additional 2% of their electricity from renewable or specified waste-product energy sources by 2010”.


Senator Campbell on MRET (Hansard 14 Aug 2000):
‘And what else does this mean for Australia? It means jobs, particularly in regional areas.’
However in its design MRET became a Gigawatt Hour (GWh) target rather than a percentage of market-share.
That is, by making the target a Giga-Watt-Hour target rather than as a percentage of electricity generated, the target became a dead target.
The result is that market share of renewable energy in 2010 will be approximately 10.5% - exactly the same as it was in 1997.
In other words, MRET hasn’t increased the market share of renewable energy, it has simply enabled it to keep pace with our growing demand for energy.
The question is how we move forward and avoid dangerous climate change.
The answer, or at least part of the answer, is through clean energy solutions such as renewable energy.

Dangerous climate change can be avoided, but to do so we need to take strong, decisive, smart action now.
The Howard Government sees no contradiction in proclaiming that Australia will meet the Kyoto target – while also claiming that ratification would destroy economic growth.
The Howard Government signs the vision statement of the Asia Pacific Partnership, which concludes it “will complement, but not replace, the Kyoto Protocol” - but then Senior Ministers proceed to trash Kyoto.
The Government is playing games and deliberately sending conflicting messages to different audiences.

The Government is two-faced on climate change. Avoiding dangerous climate change is too important to be hostage to the Government’s spin.
There needs to be action. We can avoid dangerous climate change if we take smart, prudent action.
Determining when to act is often as important as determining how to act. Clearly the time to act is now.
Fossil fuels are a finite resource and the reality is that we are running out of time much faster than we are running out of fossil fuels.
Even George Bush has finally recognised what is happening to our planet and has acknowledged that we need to do something about it.
We know the challenge and most importantly we know enough to act now.
We need to confront the problem immediately and head on. The stakes are too high. That is why the bill before us today is so weak. And that was why the Budget was such a disappointment.
This is not about jobs verses the environment as the Howard government would have us believe. That is a false and unproductive debate.
Indeed, strong action is vital for our economic future.
It has been continuously frustrating to watch the Howard government sidetrack and muddy the debate on this issue.
The Howard Government’s approach is very high risk. It puts all our eggs in one basket.
It denies the expansion of technologies already available – solutions that are already tried and tested – such as solar energy or wind energy.
What is needed from Government are drivers of technology change and policies which promote the take up of renewable energy.
The bill before the House is tinkering with administrative arrangements for renewable energy when greater investment and action is required.
Our region holds many exciting investment possibilities yet only with a global mindset can there be the necessary transfer of know how and technical expertise to see a world-wide clean, renewable energy network.
Partnerships in our region have the potential to unlock huge economic and environmental opportunities for our nation.

With the necessary mechanisms and support it is clear that the renewable energy industry can become the focal point for our region.

Indeed, our full participation in the global network is essential to unlocking environmental and economic growth opportunities.

The Howard Government has so far failed to take up this opportunity.

The Government has left us unprepared for the impacts of climate change.

We have the potential for a stronger renewable energy industry, yet the government’s inaction has instead seen our jobs go overseas and our market isolated.

The Howard Government’s refusal to sign the Kyoto protocol rendered the future of our renewable energy industry vulnerable.

The technologies are there. They are proven and available solutions – these are not far distant notions.

We are blessed with natural resources in this vast country of ours.

Fossil fuels, yes. But also a vast wealth of renewable resources.

We have been dealt a good hand, but we need to play our cards well.

Diversification of our energy sources is essential.

We have to ensure that we spread the risk and invest in a range of technologies, as well as looking at energy efficient technologies that reduce our overall demand.

Labor will announce an ambitious renewable energy target closer to the election.

Labor’s MRET target will be a significant increase, but definitely achievable.

I believe we can and must reach further, to ensure the success of our renewable industry, for our economy and jobs at home and for the prosperity and sustainability of this country.

In Germany, the use of renewables has grown from 4-9% in just 6 years.

Conservative Opposition leader Angela Merkel has quickly realised that tens of thousands of jobs would be threatened if this commitment was wound back.

Renewable targets should be viewed in the context of overall emissions reduction targets.

The UK has already set itself a target of a 60% emissions reduction by 2050, as has New South Wales.

These are the kind of aims - this is the kind of vision and leadership that is needed to meet the challenge.

Labor stands for a strong economy, creating wealth and security for all Australians.

And Labor understands that environmental progress is a necessary component of economic prosperity.

We will work with the renewable energy industry to ensure it gets the support that it deserves.

Our very future depends on it.

I move:

At the end of the motion add “but the Senate condemns the Howard Government’s complacency over climate change and calls on the Government to:

(a) join the established global framework for action against climate change and ratify the Kyoto Protocol;

(b) establish a national emissions trading scheme so Australians can minimise the cost of adjusting to a carbon constrained economy and enjoy the economic opportunities arising from the global carbon trading market under the Kyoto Protocol;

(c) ratify the Kyoto Protocol and therefore allow Australian companies to benefit from the Kyoto Protocol’s Clean Development Mechanism and Joint Implementation provisions which encourage and reward renewable energy projects;

(d) work towards a long-term target of 60 per cent cuts to Australia’s year 2000 levels of greenhouse gas emissions by 2050;
The Democrats support the Renewable Energy (Electricity) Amendment Bill 2006 but we are disappointed that it ignores so much of what has been said to the committee. It ignores recommendations 8 and 9 of the Tambling report—the government’s own report—which were to increase and extend MRET. It ignores all of the submissions to this bill, which pretty much said the same. They said that MRET—the mandated renewable energy target—should be increased and should be extended. The bill also ignores the inquiry into the government’s energy white paper, Lurching forward, looking back, which said much the same, amongst other things.

The fact is that the target for mandated renewable energy has pretty much already been met. There are a number of reasons for that. The first reason is that the conversion of the additional two per cent of renewable energy to 9,500 gigawatt hours by 2010 was based on a gross underestimation of energy use by that time, which means that we have less renewable energy as a percentage of the total being generated in this country now than when MRET was first put forward. That is a miserable state of affairs and also means that, for yet another renewable energy—we have just demolished the biofuels industry—this legislation does not take the opportunity to foster a renewable energy industry for electricity generation. It is a great disappointment.

The Democrats put in a quite extensive dissenting report to this legislation, which I will not go all the way through, you will be pleased to know, but there are some points that I want to make. It has become clear to us that the government prefers coal to renewable energy; it has made that perfectly obvious in its support of so-called clean coal technology. But, as we all know, that is a highly risky technology and it is unproven in the context of stationary energy generation. It is still very expensive, which is why a lot of money is presently being spent trying to make it less expensive—but it is not expected to be available until the middle of the next decade. By all accounts it is very unlikely that the costs can be brought down sufficiently to make the process viable. It is worth noting here that Australia has the third-lowest electricity prices for industry and the second-lowest for households in the OECD. Again, there are parallels with transport fuel. We have some of the lowest taxes in the world and lowest prices in the world, yet we wonder why there is so little interest in efficiency.

MRET has a number of flaws. I have already mentioned the first, which is that the target is not high enough. It certainly is nothing like two per cent—I am not sure what the figures are right now, but it would be around 0.5 per cent rather than two per cent of the total. The overall share of renewables in Australia’s energy sector certainly has not increased. In that sense it is a miserable failure. But it was an exciting market based mechanism and we certainly were very pleased to see the government move down this path. It is hard to imagine them doing the same thing now, but at the time it was innovative and
was something that gave the renewable energy industry a kick-on. Of course, so many of the RECs were taken up by the old hydro projects because of the very generous baseline scheme. No doubt Tasmania benefited enormously and still are benefitting, and that is a good thing. They use their money wisely. I am told they used it to reinvest in wind power. That is really good. However, Australians paid extra—Tasmanians paid extra, too—for renewable energy that they should have expected in any case.

A nationwide carbon trading scheme would have been more desirable. That would far better account for greenhouse gas emissions and provide a level playing field on which truly clean technologies could compete. We have been calling for emissions trading for some years. The Australian Greenhouse Office had developed a scheme for emissions trading, but that has been gathering dust on the shelf of the AGO pretty much since it was developed. This government has done a major backflip on supporting Australia’s efforts to reduce emissions and increase its renewable energy.

The consequences of this failure to increase and extend MRET include a reduction of investment in renewable energy in Australia, a loss of potential export industry, a loss of jobs, and a failure to create more jobs, particularly in regional areas. I know that Tasmania has benefited from having the industry set up down there to make nacelles. We have a plant in Portland that is producing the blades for turbines, which is a massive undertaking and a really good start towards having that industry in Australia. But by all accounts it is not going to go too much further.

That failure means that we are as far away from achieving a reduction in our true energy consumption related greenhouse emissions as we ever were. We have massively increased our emissions from the electricity generation sector. Our saviour is the very generous undertaking we managed to get out of the Kyoto protocol to save our skins through not clearing land. We cannot pretend that there is anything good about our ability to almost meet our 1990 emission levels; it is all a bit of a sham. And, certainly, MRET has not played too much of a part in that.

On the question of the investment in the industry stalling, the Australian Business Council for Sustainable Energy said in their submission that investment had stalled because the target had essentially been met. They said:

We would also highlight that new investment in renewable energy projects has now effectively stalled as sufficient projects now exist to fully deliver the 9500 GWh target.

The renewable energy generators said pretty much the same. Most of the projects needed to meet the cumulative MRET have already been built or committed or are in the advanced planning stages. Auswind said that there were projects in the pipeline but they had not been, and would not be, taken to the next stage. That is because of the next problem with MRET, which is the investment cliff, as it is called. Auswind said:

This investment cliff is clearly evident in the number of projects and associated investments that have now banked up in Australia. These projects, nineteen wind farms with a total capacity of 1369 MW, have received planning approval and yet have not been taken to the next stage.

So it is not just to do with orange-bellied parrots and the possibility of one being at the site of the Bald Hills wind farm once every thousand years, and even then not necessarily being clipped by a turbine. It is the fact that MRET is going nowhere. It is already up to its limit in terms of commitments. It does not help that Minister Campbell is so opposed to wind farms, as he has now demonstrated twice pretty effectively, but it is the
government’s policy which militates against further development.

Loss of jobs is a big issue. The great pity is that these jobs could have been developed in regional areas. We hear a lot in this place about the need to support the regions and the country, but not too much has happened. According to one of our submissions:

The Renewable Energy Industry as a whole provides around 15,000 direct and indirect jobs across Australia ... The activity from upgrading existing infrastructure and developing new projects has also contributed to significant levels of investment in regional Australia which has also generated increased levels of employment ...

And so on. Industry growth also led to the establishment of manufacturing facilities to support wind farm installations. The nacelle factory in Tasmania, the blade factory in Victoria and tower manufacturing in Tasmania are all part of the benefits of MRET. But whether they continue, as I said, is another problem.

The Wind Energy Association said there are also lots of examples of investors going offshore as a result of this government’s inaction. They said:

The investment cliff is also clearly demonstrated by the amount of investment that is proceeding offshore to countries and regions providing market incentives for the renewable energy sector ... Novera Energy withdrew from the Australian Stock Exchange on April 4th 2006, and relocated to the UK.

The UK is a country that at least fosters its renewable energy, particularly wind. The company expressed its disappointment at what it considered to be little incentive for market innovation in Australia’s renewable energy industry and said that the market was a very difficult one for small companies, given competition by larger companies and state owned enterprises for limited renewable energy opportunities. Another example is Investec. The Wind Energy Association said:

The Investec Bank (Australia) Ltd, in its submission to the Victorian Government’s Paper “Driving investment in renewable energy in Victoria – options for a Victorian market-based measure”, states that: “The practical reality is that the Commonwealth MRET scheme delivered significant impetus to the nascent renewable energy in Australia and resulted in the development and construction of many landmark projects since its introduction in 2000. However, with the non-renewal of the MRET scheme and its targets, this momentum has stalled, with many renewable energy projects across Australia unable to be brought to construction and many renewable energy stakeholders leaving Australia for more conducive jurisdictions”.

And there are plenty of them out there. Australia is indeed going backwards. We are lurching forward, but mostly going backwards.

The migration of business offshore is resulting in billions of dollars lost to investment in Australia, including the monetary value of the lost emissions reductions. It is just so disappointing that this government is so uninterested in the sector. Auswind’s sentiments were shared by the Roaring 40s, who said:

Without this change—that is, increasing and expanding MRET—the Australian Wind Industry is likely to stall and emerging capabilities in the industry will, in our view, locate off-shore.

That is the sorry story. It is such a shame that this bill does not do anything about it. The minister will talk about how wonderful the sector has been, but we have now reached a stage where there is not going to be too much more by way of wind energy, particularly, and solar. That is because so many other sources have been included that should not have been and because there have been so many miscalculations about what two per cent really means. As I said, it is a lost opportunity.
And now the government is talking about nuclear power. That is where we have lurched to. We are having, as we all know, an inquiry into comparisons between nuclear and coal to see whether it is viable. We know that wind and solar are viable and just need to be given the right incentives and the right market mechanisms to get them going. It is all there. The technology is known. If you are talking about wind, it is not that much more expensive than coal-fired power; it is getting closer all the time. It would beat coal hands down if there were some mechanism in place that required coal to be responsible for the cost of its emissions. But we are never going to go down that path, apparently. A carbon tax would do it. An emissions-trading system would do it. But the government is not interested in those things either. Again, Australia is a backwater on energy. Whether it is transport fuel or electricity generation we do not have a clue, and we do not seem to care about it.

Senator MILNE (Tasmania) (11.07 pm)—I rise tonight to express my great disappointment with the Renewable Energy (Electricity) Amendment Bill 2006. This bill came about in theory to implement the recommendations of the Tambling report into the operation of the Renewable Energy (Electricity) Act 2000 as well as adopting the provisions of the Renewable Energy (Electricity) Amendment Bill 2002 but tragically it fails to incorporate the most important recommendation of the 2003 review of the Renewable Energy (Electricity) Act, namely that MRET be extended from 2010 to 2020, with an increased target of 20,000 gigawatt hours to be achieved by 2020. This recommendation for an extended time frame and increased target received widespread support from the renewables industry, and all of the submissions from industry reflected this, and that was acknowledged in the Senate committee report.

The government’s arguments against extending MRET are completely flawed. The first argument that the government used was that MRET is a more costly measure to reduce greenhouse gas emissions than it needs to be as it focuses exclusively on renewable energy sources rather than least cost greenhouse gas abatement, such as reducing energy consumption through improving energy efficiency. Nobody disputes that we should be moving rapidly to energy efficiency. We would all agree with that, but you can do both. You can have energy efficiency and reduce demand—go for demand side management—and at the same time increase supply of renewable energy. You can have both. It is not one or the other.

They have used the argument that we are not going to go with renewables because energy efficiency is the lower hanging fruit, and it is in terms of greenhouse gas reduction and increased supply as such, but the problem is that the government have not acted on that either. Several times in this chamber in the last month I have moved to have the energy efficiency audits that the government have required to be done implemented. The government have basically rejected that. We have a situation where they reject the argument and the very option to implement what they say is the reason they are not pursuing the MRET.

Secondly, we have a situation where the government argued that the MRET scheme focuses on expanding the renewable energy industry to conserve non-renewable resources, which in reality is not an issue for Australia given our abundant supply of coal and large natural gas resources and may result in unnecessary escalations in the price of energy. That actually goes to the heart of it. That is the explanation. We have got coal and gas so it is not an issue. It is an issue for Australia and I have spoken extensively on that this week. It is an issue for Australia because
global warming is real, it is urgent and there is a moral imperative to deal with it quickly because the costs of not dealing with it are going to be mega.

We cannot even begin to imagine in this house tonight what the costs of global warming are going to be within 20 years, especially if there are greenhouse or climate accidents of the scale that scientists say are possible. If we have the break-up of the west Antarctic ice shelf, if we lose the Greenland ice shelf, then we are going to experience a five- to seven-metre sea level rise. A five- to seven-metre sea level rise would wipe out 44 million people around Shanghai, in Bangladesh, Manhattan, around Australia—imagine that, with our capital cities based largely on the coast. We are talking about huge costs for not dealing with greenhouse gases, not going with mitigation right now.

So to say that renewable energy is not an issue because we have an abundant supply of coal and natural gas is totally, utterly, absolutely irresponsible, and fails to internalise the costs of coal and greenhouse gas energy sources. What we should be doing is putting a price on carbon so that you internalise the externality, as it currently is, of greenhouse gas emissions. If you put a price on carbon then you would not need the mandatory renewable energy target. You would have an emissions-trading system, you would have options for various forms of carbon taxation, and the renewable energy sector would fly.

But as I indicated today in the fuel tax debate, there is no comprehensive plan to deal with greenhouse gas abatement. We are not asking what the extent of the task is. Let me tell you what the extent of the task is. In terms of stationary energy, we have had a 43 per cent increase in emissions between 1990 and 2004. How are we going to deal with that? How are we going to drop the emissions in energy, particularly in the electricity sector? The government does not have a plan for doing that.

The last argument, the main argument the government use, is that the energy market supports the introduction of a national economy wide emissions-trading scheme to abate the same level of emissions as intended through a number of separate schemes currently in operation. So they are saying: ‘Yes, we should have an emissions-trading scheme, and if we did that, we wouldn’t need MRET. Therefore, we’re going to get rid of MRET, but we don’t have the emissions-trading scheme.’ So the logic behind rejecting MRET is just not there. It demonstrates that the government are not serious about greenhouse gas abatement.

The Minister for the Environment and Heritage, Senator Ian Campbell, said earlier this year that he believed Australia’s competitive advantage in a carbon constrained world is our coal reserves. I never understood the logic of that then, and I still do not understand the logic of that. Nevertheless, that was the minister for the environment telling the world that in a carbon constrained world, Australia’s competitive advantage is in its coal reserves, and when everybody else is moving on to renewable energy, we are focusing on carbon capture and storage, which is unproven technology. We are being left behind.

India has a 20 per cent renewable energy target. China has a 15 per cent target. The UK has 10 per cent and Australia has two per cent, which has retreated to 0.5 per cent because of the expanded economy and because of the extent of the increase in our energy demand. So we are actually going backwards at a fast rate. Apart from the clear imperative to deal with greenhouse gases and to reduce our reliance on coal and fossil fuels, there are the issues of strengthening and developing some resilience in the Australian economy,
boosting the manufacturing and R&D sectors and boosting the number of jobs, particularly in rural and regional areas. That is what investment in renewable energy does. But what we are seeing is the government actually stopping that investment and driving these companies offshore. I simply cannot understand how the government can sit back and be so relaxed about so many companies going offshore.

Senator Allison has referred tonight to some of them. Roaring 40s, the Tasmanian example, has gone to China, where it has recently announced a new joint venture of wind farms on China’s east coast. It will have an operating capacity of 48.75 megawatts and is part of a target of 150 megawatts for joint development for China. This makes Roaring 40s a major player in renewable energy there. Roaring 40s has said very clearly that it is being driven out of investment in Australia because of the government’s refusal either to put a price on carbon and go with an emissions-trading scheme or to extend MRET. We are not seeing anything. The whole world is recognising the need to put a price on carbon, and I simply cannot understand why Australia refuses to do so, except that it is so married to the notion of coal and uranium as future energy sources—when neither can deal with greenhouse in the time frame we are talking about.

Ten or 15 years will not see us being able to use uranium, even if you supported that as a fuel source, because we are not going to have any capacity on stream to reduce greenhouse gas emissions, and if we have not done that in 15 years it will be too late. That is what I need to convey to the Senate: the urgency of the need for dramatic reduction in greenhouse gases. While we encourage individual action and we ask people to do what they can in their personal lives, what we need is systemic change, and only governments can bring about systemic change, through a regulatory environment and a series of incentives. That is what MRET did. When it was introduced, the Prime Minister said:

Targets will be set for the inclusion of renewable energy in electricity generation by the year 2010. Electricity retailers and other large electricity buyers will be legally required to source an additional 2 per cent of their electricity from renewable or specified waste-product energy sources by 2010 (including through direct investment in alternative renewable energy sources such as solar water heaters). This will accelerate the uptake of renewable energy in grid-based power applications and provide an ongoing base for commercially competitive renewable energy. The program will also contribute to the development of internationally competitive industries which could participate effectively in the burgeoning Asian energy market.

All that is true and all that has happened, and you are abolishing it. I simply do not understand why you are not taking this opportunity to build resilience and a bit more sophistication into the Australian economy, instead of simplifying it more and more by the day, in going back to a ‘digging it up, cutting it down, quarry, farm and nice place to visit’ economy.

Of the companies that are being driven overseas, we have heard about Roaring 40s and Novera Energy. There is also Seapower Pacific. It is a Western Australian company that has left Australia and gone to the UK. The product is a renewable wave energy converter. It is the first wave power converter that sits on the seabed, where it is invisible, safe from storms and ocean forces, and self contained. It is yet another example of an Australian technology going overseas. Pacific Hydro is currently looking at the potential of geothermal energy from the Great Artesian Basin. It says that there is sufficient geothermal energy there right now to produce 25 per cent of the eastern states’ baseload for the next 100 years. Why are we...
even talking about nuclear when we have got a renewable energy company that has already done the survey work, has identified the capacity and can roll it out right now?

At ANU we have got sliver cell technology for photovoltaics, which will reduce the cost of photovoltaics by 75 per cent. That technology is likely to go to Germany, Japan or possibly China. It is not going to be rolled out in Australia. Why not? There is also solar thermal. With an area of 35 square kilometres in Australia we can produce all of the baseload power that Australia needs. That is 35 square kilometres to roll out the huge solar collectors to go with this technology. We have got the capacity with renewables to meet our baseload requirements. That would support our R&D sector and it would support a more sophisticated economy. All of that could be achieved by going with a comprehensive plan to look at energy provision and supply for Australia and a way of incorporating that through a series of government regulatory frameworks—whether it is a price on carbon through tax, a price on carbon cap-and-trade or through the lesser mechanism of MRET. But at least the potential is there.

But I am not seeing anything from the government that suggests that it has any understanding of either the urgency or the size of the task of reducing the greenhouse gas challenge. How are we going to stop these greenhouse gases spiralling out of control? As I indicated earlier today, in the transport sector there was an increase in emissions of 23.4 per cent between 1990 and 2004, and in energy we have had a 43 per cent increase. I do not know how we are going to deal with it. The government has not got an idea of how to deal with it.

I moved in this house this week for a full and comprehensive inquiry into renewable energy and meeting Australia’s energy needs into the future, and it was voted down. The government does not have a plan and it does not want the Senate to find a plan, because the government is intent on backing coal and uranium against the renewable sector. What it is doing is backing quarries against brains. That is the Liberal strategy. Quarries can exist as long as you have a market to sell what you dig up—assuming that what you have to dig up can last forever, and we know that is wrong. The world cannot afford to mine coal at the rate that it is and it cannot afford to use it, and the world cannot afford uranium. Even if it could, it is only a short-term source of supply, maybe 40 years worth at best; if you use the high-grade ore, probably nine years at best. So it is a transitory strategy to deal with a long-term problem, when renewables can address that problem.

In the committee stage, I am going to move for the government and the Senate to implement the recommendation that the Tambling report came forward with, and that is 20,000 gigawatt hours by 2020. It is not enough. We would like to go way further than that. As I indicated, the Greens would like to see a price on carbon. We would like to see a comprehensive emissions trading system. We would like to look at a range of measures in relation to transport fuels, such as changing the whole basis of transport fuel tax to a tax on carbon instead of a tax on energy content. But that is not going to happen. At the very least, the Senate should vote on accepting the main recommendation of the government’s own review, the Tambling report. That is what I will be moving for. I am also going to support the Democrats’ amendment with regard to this, which goes much further, and I would be happy to go further still. But supporting the Greens’ amendment would be an indication that this chamber support the mandatory renewable energy target, that we support renewable energy and that we want to see the jobs, the
investment and the excitement that can come from investment in that field.

As a final word, I would just like to mention Dr Shi, the Australian scientist who has now made a billion. He is our first solar billionaire, and he has made that money by investment in China. That investment should have been able to occur in Australia as well as in China. It is great to see China, India and the rest of the world investing in renewable energy, but that should be happening here as well to meet the ever-increasing greenhouse gas challenge that we have.

Senator SCULLION (Northern Territory) (11.25 pm)—I seek leave to incorporate Senator Boswell’s speech.

Leave granted.

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (11.25 pm)—The incorporated speech read as follows—

This bill amends the Renewable Energy (Electricity) Act 2000 to implement the Government’s response to a review into the operation of the Act, and reaffirms the Government’s commitment to the mandatory renewable energy target – the MRET scheme.

The MRET, which requires that minimum amounts of additional renewable energy be sourced by wholesale electricity purchasers, is a sizeable greenhouse abatement measure. Australia was the first country in the world to introduce such a nationally mandated renewable energy target backed by legislation.

It has led to some $3 billion in renewable energy investment, and is expected to increase renewable energy generation by more than 50 per cent compared to pre-MRET levels.

And I understand that more than 230 power stations have been accredited since 2001 small and large producers using a wide range of fuel types. This bill will continue to support and encourage the renewable energy sector, and deliver significant benefits.

In particular, I am pleased that among other things, this bill will now serve to clarify the gaming arrangements (ie the generation of renewable energy certificates without an equivalent increase in the amount of electricity from renewable energy sources.)

This clarification addresses the legitimate concerns of CSR and other renewable energy stakeholders who were concerned that the gaming provisions in the bill could unintentionally penalise or discourage, for example, sugar mills and refineries from optimising or expanding their core operations or improving their electricity generation efficiency and capacity.

This was obviously not the intention of the Government and so I pursued this matter on behalf of concerned stakeholders including CSR to clarify this aspect of the bill and remove the uncertainty. The government has consulted closely with stakeholders to clarify their concerns and develop a solution that meets legitimate stakeholder concerns, while preserving the effectiveness of the gaming provisions in discouraging a potential practice which could damage the integrity of the scheme.

The outcome is an amendment that will allow regulations to be made which will specify certain matters that the Renewable Energy Regulator must take into account when making his or her decision on gaming.

This government amendment has the support of CSR – and I’m sure others – and will provide some assurances to these stakeholders in relation to this issue of gaming.

The next step will be ongoing discussions between these groups and the government to ensure that the concerns about unintended consequences are dealt with appropriately.

I have worked closely on this issue with CSR - Australia’s largest sugar company (and one of Australia’s oldest companies) which is expanding its capacity to commercially generate renewable electricity.

They are heavy investors in Queensland, and Australia, and I’m pleased these changes will help minimise the risks to their expansion in the renewable energy industry.
I support this bill because it will enable ongoing encouragement of the additional generation of electricity from renewable energy sources and a reduction of greenhouse gas emissions.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (11.25 pm)—To sum up, I will be as brief as I possibly can. I will indicate that concerns have been raised by sections of the renewable energy industry that the gaming provision in the bill may unintentionally penalise or discourage, for example, sugar mills and refineries from optimising or expanding their core operations or improving their electricity generation and efficiency. This is not the government’s intent, as indicated in the explanatory memorandum. To clarify this situation, the Renewable Energy (Electricity) Amendment Bill 2006 will allow regulations to be made which will specify certain matters that the regulator must take into account when making his or her decision.

Amendments have been moved by the Australian Greens and the Australian Democrats to increase MRETs. However, increasing the MRET would impose significant economic costs through higher electricity prices in Australia. Targets of five per cent and above could increase the cumulative economic costs of MRET by $10 billion. It is suggested from time to time that that would only be the cost of a cup of coffee per month—or, to be more politically correct, possibly a cup of soy latte per month. That is all very well for those who live in a household, but when you multiply that impact on energy consuming industries—and in my home state of Tasmania and yours as well, Acting Deputy President Barnett, we could think of some, such as Comalco at George-town in the seat of Bass, Port Latta in the seat of Braddon, Cement Australia in the seat of Lyons or Xenofex in the seat of Denison—the cumulative cost of the increased power supply to those companies would clearly see masses of jobs being shed and we as a government do not want to preside over such an occurrence, having now gotten the unemployment rate down to below five per cent.

It will not surprise anyone that we oppose the Labor Party amendment. We do not believe that the Kyoto protocol is the appropriate way to go. We believe it is now quite established that it is quite a discredited framework and not effective, because it does not include some of the more important countries. It will simply export jobs out of countries like Australia to China and India, and they would then be undertaking the pollution for no net benefit to the global environment.

In relation to other measures to improve energy efficiency, they would be a good idea but for the mentioning of an effective five-star building code. I am not sure what is meant by that, but I know that a five-star building code is going to come into force in the ACT on 1 July. That is something which has been repudiated—thank goodness—by the state Labor governments of Tasmania and even the Deputy President’s state of Queenslan because the code does not take into account the whole carbon dimension of its recommendations.

Unfortunately, this code seems to recommend against wooden floors. Of course, the alternative is a concrete floor, and when you take into account the energy consumption in making the cement and the concrete, it is in fact environmentally more damaging to have a concrete floor than a wooden floor. Nevertheless, that is what this building code requires. If I can use Senator Milne’s terminology about whether we want quarries or brains, this building code that is being suggested will in fact ensure the ongoing quarrying of limestone, gravel and other things for the making of concrete, as opposed to what our brains tell us—that a renewable source,
namely timber, is environmentally better. Whereas concrete and those products are congealed electricity, trees and wood products are in fact congealed solar power. I thank honourable senators for their contributions and recommend the bill.

Question negatived.

Original question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator MILNE (Tasmania) (11.31 pm)—I move the Greens amendment on sheet 4938:

(1) Schedule 1, page 27 (after line 6), after item 89, insert:

89A Section 40

Repeal the table, substitute:

<table>
<thead>
<tr>
<th>Year</th>
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</tr>
<tr>
<td>2011 to 2020 increased by 1050GWh per annum</td>
<td>20000</td>
</tr>
</tbody>
</table>

This amendment effectively inserts into the bill the main recommendation of the Tambling report—that the mandatory renewable energy target be increased in size and extended to 2020 so that it would be 20,000 gigawatt hours in 2020. That is an extremely modest amount of extra renewable energy but, nevertheless, it would continue to lead to greater investment and security in that particular sector. Of course, I would like things to go much further, and I would be very happy if the minister sought to amend it even further. I would then withdraw this amendment and happily go with that, but I will at least test the government first on implementing the main recommendation of its own report.

Senator McLUCAS (Queensland) (11.32 pm)—On behalf of the Labor Party, regarding both the Greens amendment before the chamber and the forthcoming Democrats amendment, I indicate that, whilst Labor is extremely supportive of the principle of increasing the MRET, we cannot support proposals defined as specifically as they are in the amendments today. We do recognise that, when MRET was first announced, it was the government’s stated intention that it would increase market share of renewable energy as a percentage by two per cent. The government said in its review of the operation of the Renewable Energy (Electricity) Act 2000:

Electricity retailers and other large electricity buyers will be legally required to source an additional 2 percent of their electricity from renewable or specified waste-product energy sources by 2010.

However, we know that in its design MRET has become a gigawatt hour target rather than a percentage of market share. By making the target a gigawatt hour target rather than a percentage, the target has in fact become a dead target. The result is that market share of renewable energy in 2010 will be approximately 10.5 per cent, exactly the same as it was in 1997. Labor support significantly increasing the MRET target, and we will be announcing our detailed policy on that matter closer to the next election.

This is an area of policy that requires close consultation with industry, careful thought as to how best to support renewable energy and creative thought as to how MRET can be complemented with other supportive measures. Labor supports significantly increasing the MRET, but to do it through either the Greens amendment or the
Democrats amendment is not appropriate at this time.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (11.34 pm)—The Democrats will support this amendment moved by Senator Milne and, as has already been observed, we have a similar amendment but it has an even higher target. We took our target from the submissions made to a number of inquiries, including the Lurching Forward, Looking Back report into the energy white paper, so we do support this. It is a pity that Labor cannot bring themselves to also support this, because it is not something that we have dreamed up. It has been a common-place recommendation. In the case of the Milne amendment, if I can put it that way, it was recommended in the Tambling report, which is the government’s own report. We are acting on the best advice that has been received. The government has not been able to say why this should not take place, and it is disappointing that Labor cannot take that extra step. They are prepared to ratify Kyoto, and that is good. They recognise that there are deficiencies in MRET, which is also good, but I wonder why Labor cannot say what is actually wrong with it.

We need to be specific. That is the whole point of the MRET scheme. That is why we have 9,500 gigawatt hours—it is a specific target. I think, in fact, it would better to have a percentage. Let us go for 20 per cent of the actual by 2020. That is really what our amendment does but, of course, we do not know what the energy consumption level will be by 2020. We could be way out, as indeed the government was when it set up this target. I am all for going for a percentage. In fact, maybe we should have put an amendment up to that effect, but the government argued for certainty. It wanted to be able to tell the industry exactly what the gigawatt hours were year by year, and that is why it was converted to a target such as 9,500 gigawatt hours.

I will not speak any further on my amendment because it has all been said before. There are good arguments for these targets to be increased one way or the other to 20,000 gigawatt hours, or 30,000 in the case of our amendment. They are all justifiable. They have all been said before. They have all been put up by those who know what Australia is capable of doing and what is affordable. So I reject the minister’s argument that poor old Comalco will have to find a bit more money to pay for the energy they consume, which they consume in huge quantities of course. That is why Australia is attractive to Comalco and other aluminium smelters. We said earlier that we have the cheapest energy in the OECD. I was just looking at the Tambling report and there we are right down the bottom, even behind the United States, which is saying something. So it is time that we increased our prices for electricity, and the best way to do that is through the MRET scheme.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (11.37 pm)—I think Senator Allison summed it up well when she said, a number of times, ‘It’s all been said before.’ It has been, and has been by the government as well. We oppose the amendment.

Question put:
That the amendment (Senator Milne’s) be agreed to.

The committee divided. [11.42 pm]
(The Chairman—Senator JJ Hogg)

Ayes………… 8
Noes………… 48
Majority…… 40

AYES
Allison, L.F. Bartlett, A.J.J.
Brown, B.J. Milne, C.
Senator ALLISON (Victoria—Leader of the Australian Democrats) (11.47 pm)—I move the amendment on sheet 4982, which I have already spoken to:

(1) Schedule 1, page 27 (after line 6), after item 89, insert:

89A Section 40
Repeal the table, substitute:

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Question negatived.
Bill agreed to.
Bill reported without amendment; report adopted.

Third Reading
Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (11.47 pm)—I move:

That this bill be now read a third time.

Question agreed to.
Bill read a third time.

AUSTRALIAN RESEARCH COUNCIL AMENDMENT BILL 2006

Second Reading
Debate resumed from 15 June, on motion by Senator Kemp:

That this bill be now read a second time.

Senator STEPHENS (New South Wales) (11.48 pm)—I seek leave to incorporate my speech on the second reading debate on the Australian Research Council Amendment Bill 2006.

Leave granted.

The speech read as follows—
I rise to contribute to this debate on the Australian Research Council Amendment Bill 2006. To begin, I wish to quote from Hansard:

“The ARC will be reoriented, established as an independent agency within the Education, Training and Youth Affairs portfolio. So, its clear role...”
will be as the provider of strategic policy advice to the federal government on matters related to research in our universities. The ARC will also be required to fulfil a somewhat different but very important role, that of increasing awareness and understanding of the outcomes and benefits of research amongst all Australians...

Through peer review, the ARC will be better able to identify and respond to emerging areas of excellence in research.”

These words were spoken by the current Minister for Education, Science and Training on 1 November 2000 in her second reading speech on the ARC Bill 2000.

Almost six years later, the Minister is trashing these important roles of the ARC with her ARC Amendment Bill 2006. Labor is concerned that the independence of the ARC, as well as its capabilities, will be damaged under the proposed Bill. Labor is also concerned about the Government’s political agenda behind this piece of legislation.

As a former teacher for almost 20 years I hold education dear to me, and am well aware of the need for an independent authority to assess and make recommendations on the funding of the highest quality research proposals. The ARC’s independence is also central to its role of advising the Government on research matters. Far from strengthening the ARC, as the Government claims, this bill will act to the detriment of publicly funded research in Australia.

Advances in medicine, or physics, or the humanities and social sciences would not have been possible if Government constantly meddled with research funding for political ends.

Australia has made an excellent contribution to the international community through world-class research. The Cochlear bionic ear, the VentraAssist rotary blood pump, regulatory theory in crime prevention and international peacekeeping, public health, and marine biology and coral ecology are some examples of leading research in Australia.

The amendments introduced under this bill hinder this important role. They:

1. Abolish the Board and transferring its functions to the CEO;
2. Make the CEO answerable directly and only to the Minister;
3. Increase Ministerial intervention in the functioning of the ARC by directly appointing all members of ARC committees, including the peer review committees, and the CEO; and
4. Remove the ARC’s ability to initiate inquiries into critical research matters of national interest.

The bill also extends appropriations funding to the ARC for 2008-09.

The existing ARC Act gives the ARC financial security until 2008. There was no sound reason for attaching the ARC’s core funding grant to the end of this extreme and heavy-handed Bill. But the Government knows that Labor will not stand in the way of core funding to the ARC. That is why the ARC’s appropriations have been tacked onto the end of this bill. It is this last feature of the bill which means that Labor will not oppose the ARC Bill. Labor understands that we must act responsibly and with care when it comes to funding high quality research in Australia.

However, we do have serious concerns with this legislation and I will be moving amendments that would improve transparency and limit the capacity of the Minister to impose her political whim on the ARC.

Investing sole responsibility and decision-making in a single government appointee diminishes the independence and capabilities of the ARC.

Any Minister must ultimately be accountable to the Parliament and the public for the use of taxpayer funds. Accountability is about established clear processes to determine use of taxpayer funds and maintaining oversight of that process. Accountability is not about the Minister personally signing the weekly stationery order, which is what Bill is trying to do.

The Minister for Education has come a long way from her arguments six years ago.

Despite arguing for the ARC as a provider of “strategic policy advice to the federal government on matters related to research in our universities”, The Minister has constrained the ARC’s ability to access strategic advice by abolishing the Board,
assess the effectiveness of research and the ARC's processes by stopping the ARC from initiating inquiries, and putting at risk the ARC's integrity and international reputation by directly appointing its staff and Committee members.

The Government is relying upon the 2003 review of the Corporate Governance of Statutory Authorities and Office Holders, known as the Uhrig review, to justify this heavy-handed Bill. The Uhrig Review recommends that Boards of statutory agencies should be removed unless the Government is prepared to devolve all responsibility to these agencies. Unfortunately, the Uhrig review’s recommendations do not take into account the political agenda and the extent of meddling and misuse of public funds by this Government. Under the guise of better governance, the ARC Amendment Bill will do the opposite.

By removing the Board and handing over power of appointment to the Minister, this bill gives total power to the Minister to meddle in the ARC operations and push this Government’s extreme ideological obsessions onto our research funding body. It is much more difficult to remove a Board of 14 eminent researchers, business leaders and community members than a CEO that the Minister will appoint herself. This buffer is important in maintaining the independent assessment of research.

It is for this reason that getting rid of the ARC Board will not deliver better governance, more transparency or proper accountability of taxpayer funds. Playing politics and pushing extreme agendas will get in the way.

There was no reason to take this approach to the ARC under the guise of the Uhrig Review of governance. The Minister for Ageing recently tabled a Bill this year to change the governance arrangements of the National Health and Medical Research Council in line with the Uhrig review but without abolishing its Board.

The Board was also given the authority to “initiate inquiries, on its own motion, into matters related to research”. But this power has also been deleted from the bill before us when it transfers the powers of the Board to the CEO.

In Senate estimates in the Education, Science and Training Portfolio, it was put to a senior ARC officer whether “the ARC’s CEO [can] initiate an inquiry without the sign-off of the minister, without the minister’s permission?” The officer could not answer this simple question, and instead informed the Senate the following:

“Senator, would you mind if we took that question on notice so we can provide a clear, specific answer? I would like to be able to consult more widely, if we need to—such as, the Australian Government Solicitor’s office and that sort of thing—because you have raised a small doubt in my mind, which did not exist until recently”.

What ‘small doubt’ does this senior officer have? The government has claimed that the CEO retains these powers under other legislation, but senior ARC officers were unable to confirm this, and instead need to seek legal advice from the Australian Government Solicitor. I have no doubt that this Government will do everything it can to limit the powers of the ARC if it is able to do so.

By removing or constraining the ARC’s ability to inquire into critical research issues and provide high-calibre strategic advice based on its inquiry work, the government is sending a message that it only wants advice tailored to suit its political interests. This will be at the expense of the future of research here in Australia. To generate economic growth and create new sectors, research and innovation needs to feature strongly in public policy. It is the public investment made today in research that will fuel the economy of tomorrow, support innovation in new technologies, and lead to breakthroughs in medicine and science.

If the Government actually valued the international reputation of research in Australia, it would fund it properly, and respect the integrity and independence of the ARC.

The previous Education Minister, Brendan Nelson, intervened in allocating research funds by rejecting three grants in 2004 and seven grants in 2005, which were recommended for funding by the Board. This government certainly has a record for meddling with the public service; it’s being doing this in the Department of Immigration, in the Department of Foreign Affairs and Trade, and now it wants to do the same in statutory authorities. This is completely unacceptable.
The current Minister for Education has stated publicly that she will respect the decisions made by the College of Experts in recommending research proposals for funding. This Government’s record proves otherwise.

If it is the case that the Minister won’t interfere, why is she giving herself the power to meddle and interfere in the first place? The Government’s intentions with this bill are far from honest.

This Government will not be able to stop itself from taking advantage of the massive power that this bill allows. Of course we must remember that the power to veto comes on top of the power to directly appoint the CEO and members of the peer review panels.

Perhaps the Minister will no longer need to veto if she sets up the process to always give her the right answer!

With the abolition of the Board, there is an even greater expectation on the College of Experts to ensure the independent assessment of research and funding of research proposals. However, the College of Experts and the other peer review panels will now be directly appointed by the Minister.

All that the Minister has to do is to “try to ensure that the composition of the committee reflects the diversity of the interests in the matter or matters that the committee will be dealing with.”. I’m sure the Howard Government also tried to ensure that it didn’t tort the regional grants program.

It is one thing to accept or reject membership recommendations from the Board of an expert body; but giving yourself the power to effectively make the decisions is another thing altogether.

The College of Experts and the other Expert Panels play a critical role in the ARC. Whether it’s the Discovery Grants or Federation Fellowships or the ARC’s Linkage projects, the ARC has a rigorous system to evaluate quality and benefit to the national interest and make funding recommendations accordingly. Many of the expert members are internationally acclaimed researchers.

Peer review is currently international best practice, the most reliable mechanism we have today to assess high-quality research around the world.

Labor wants to see peer and expert review protected for these reasons.

Now, the designated committees will be at the behest of the Education Minister and the political pursuits of the government.

The ARC should be independent and free from political interference, with a broad membership playing an important role in the direction of research in Australia.

Senator STOTT DESPOJA (South Australia) (11.49 pm)—I also seek leave to incorporate my speech on the Australian Research Council Amendment Bill 2006 on the basis that I, like many others tonight, want to expedite the proceedings of the Senate. Having said that, a lot of work has gone into discussion, debate and the preparation of amendments relating to this particular piece of legislation. I do it to save the Senate time, not because it is a preferable option.

Leave granted.

The speech read as follows—

Last year, the Education, Science and Training Minister shook the Australian research community by vetting grants for projects already recommended by the Australian Research Council’s (ARC) College of Experts. This followed previous vetoes in 2004.

This blatant intervention in the ARC’s internationally recognised peer review system of grants allocation, provoked much alarm among grant applicants, particularly given the Minister provided no explanation for the vetoes.

Feedback to help researchers improve applications was not offered, just the insinuation that the rejected projects, all in the humanities and social sciences areas, were somehow frivolous and unworthy of funding.

The vacuum of information surrounding the rejection of these grants exposed the Government to accusations of political interference and stirred much speculation on the nature of the projects - were they politically sensitive and what kind of research was the Government refusing to fund?

Requests from Group of 8 and the Council for the Humanities, Arts and Social Sciences (CHASS)
to disclose the projects were ignored. The Minister has not yet responded to my request last year for details on these projects.

The Australian Research Council Amendment Bill 2006, provides no safeguards to prevent such interference happening in the future. In fact, it may facilitate further Ministerial intervention in the operations of the ARC by bestowing on the Minister extraordinary power in relation to the Council’s Committees. The Minister can establish, determine function and membership of, and ultimately dissolve “Designated Committees”.

There is no provision to prevent the vetoing on projects already approved by the College of Experts. Currently, and under the new legislation, projects with politically sensitive research subjects such as embryonic stem cells may be vetoed without explanation.

As the Federation of Scientific and Technological Societies (FASTS) asserted, “if the Minister has the power to not accept a recommendation of the ARC, the minister must accept the obligation to: ensure that the criteria and rules for ARC programs are explicit, comprehensive and confirm excellence as the fundamental determinant; and, provide good reasons to parliament, including naming the specific area and topic of research so that the public and researchers are aware of what areas the Government will not support” without identifying the applicant or institution.1

The Minister’s attacks on the ARC appeared to be a knee-jerk response to superficial media commentary which has criticised and ridiculed past projects approved and funded by the ARC, and arguably, by extension, the Minister overseeing this process.

The tampering with the College of Expert’s decisions neglcts the fact that the ARC’s process of peer review is already a rigorous, comprehensive process that demands a high level of commitment from its assessors. In addition, it is no easy feat to apply for a grant and the failure rate is high – the ARC already does a scrupulous job of weeding out unworthy applications.

As one Deputy Vice-Chancellor complained “I know that people just don’t just put in applications about mindless crap. There’s too much effort involved.”

Such opaque intervention can only have the effect of researchers censoring their projects, avoiding certain research topics in fear of rejection. Without being privy to the reasons behind the vetoes, all ground becomes shaky, making for a demoralised research sector, discouraged from making the leaps of faith necessary for new discoveries.

Research will be confined to those perceived as sanctioned by the Government, rendering the ARC irrelevant.

In effect, the Government is usurping the ARC’s authority on what merits research.

The former Minister’s announcement last year of the abolition of the ARC Board, purportedly in accordance with the recommendations of the Uhrig Review of the Corporate Governance of Statutory Authorities and Office Holders, in addition to other provisions in this legislation, will leave the ARC’s peer review process open to even further intervention from the Minister of the day.

Given the recent legislation also based on Uhrig’s recommendations that, in fact, arguably afforded greater independence to the NHMRC, it appears the Review has been applied inconsistently. This legislation, in fact, reduces the ARC’s autonomy in that the CEO will be the only buffer between the peer review process and the Minister, where previously the Board offered some, albeit limited, independent oversight in the allocation of funding.

In addition, this legislation places the CEO in a precarious position. Instead of a 14 member Board, the Minister will adopt or reject the recommendations of just one person - the CEO - who is appointed and sacked by the Minister.

Although the current Minister has expressed support for the peer review process, subsequent Ministers may have a different philosophy. This legislation will provide them with the latitude to undermine further critical components of the peer review process such as the College of Experts, whose members are internationally recognised experts.

This legislation renders the future of the College of Experts uncertain. While the Explanatory Memorandum states it will be maintained as a Designated Committee and will “continue to play...
a key role in the peer review process”, this has not been enshrined in the legislation. Even if it is maintained as a Designated Committee, the College of Experts will be exposed to the same Ministerial intervention as other committees, with the Minister able to decide on its membership, function, and dissolution.

Far from DEST’s claim that “there is no extension or diminishment of that power with this Bill”, it actually transfers the power to appoint members to committees from the ARC, subject to Ministerial approval, to the Minister.

In addition, the Minister also assumes responsibility to establish, determine functions and dissolve designated committees.

Only last year, the former Minister made controversial appointments of three lay people to the Quality and Scrutiny Committee. These appointments were to perform a “community representative function”, although it was unclear how the chosen three fulfilled this function. One of the three described the appointment process as “quite bizarre”.4 The role played by the lay members within the Quality and Scrutiny Committee was hazy and ill-defined, but was beefed up following complaints by one of the three that his role was “useless”, a “PR exercise” and “purely window dressing”.5

Given the legislation expands the Minister’s powers to make appointments to ARC committees, this should serve as a cautionary tale.

The only apparent safeguard is that the Minister must “try to ensure that the composition of the committee reflects the diversity of interests” in choosing members, however, there is no specific direction or guidelines to facilitate this process.6

Despite this emphasis on diversity of Committee membership, the requirement to have a minimum of five members of a committee is being dropped. Allowing for fewer members will only compromise attempts to maintain diversity of the ARC’s committees.

There is too much in this bill that remains unclear to stakeholders, even to DEST and to the ARC itself.

The role and function of the proposed Advisory Committee has not been explained sufficiently. It is apparent it will offer “high level strategic advice”, however, terms of reference and membership do not appear to be decided.

The scope and nature of the proposed Statement of Expectation, to be issued by the Minister, is also unclear, as is whether the research sector will be consulted in the formulation of the statement.

Meanwhile, the legislation demands the ARC respond to the Minister’s statement through a Statement of Intent, thus creating more red tape and providing increased opportunity for the Minister to prescribe the ARC’s activities.

The fact that both DEST and the ARC itself are uncertain about the extent of the bill’s provisions should be ringing loud and persistent alarm bells.

Despite my questioning of DEST at the Committee hearing and the ARC at Budget Estimates, I am yet to receive a clear answer on whether the ARC’s CEO will have the ability to initiate inquiries without seeking Ministerial approval. While FASTS interpreted the new legislation as allowing this, DEST’s submission suggested it did not.

The Chair’s Report on the bill sheds no light on this power, ambiguously claiming “this does not preclude the CEO from initiating inquiries”.7

In its submission, FASTS asserted that ability of the ARC to initiate inquiries without being required to seek the Minister’s approval, is a critical function of the ARC that allows it to fulfil its role of providing high level advice on research matters to the Minister.

It is ridiculous that, despite a Committee hearing and Estimates questions on this provision, we have reached the debate stage of this bill none-the-wiser. How can the legislation be debated when no one knows for certain what this bill facilitates?

In regard to the Chair’s Report, it was disappointing to note that it omits any acknowledgement the input of stakeholders who presented submissions to the inquiry. These highly-respected, peak groups sacrificed time and resources to prepare detailed analysis of the provisions of this bill and to appear as witnesses at the Committee hearing, yet none were referred to in the Report.

With around 20% of Commonwealth funding support for research supplied by the ARC, the
Despite the undermining of the processes of our peak grants body and the low level of government spending on research — Australia’s national research efforts in terms of Government expenditure are at their lowest levels for 25 years as a percentage of GDP, and while the recent budget made some one-off grants to specific research projects, there was no long-term, sustained investment in research — Australia’s research output and reputation have remained strong. However, continue neglect by the government and an undermined ARC can only have negative impact on the sector.

It is critical we get the governance of the ARC right to ensure the confidence of the research sector in this process is maintained. This is unlikely to be effected by the provisions of this bill.

This change in governance will bestow too much power on the minister and has too few safeguards to maintain accountability and transparency.

The value of peer review is obvious. It “ensures that the reasons for funding or publishing particular research are objective, rather than dependent on external influences such as the relevance of particular findings to political or commercial concerns. It is this process that ensures research excellence rather than ideologically driven research is supported.”

Unfortunately, under this legislation, peer review may once again fall victim to the Minister’s whims and the reputation of the ARC will be the loser.

I will be moving amendments to address the concerns I have outlined.

I will move: that the College of Experts is enshrined in the legislation in its own right; that its functions and terms and conditions are clearly set out; and, that its membership is decided by the ARC as opposed to the Minister.

In addition, I will move that the ARC CEO has the ability to initiate inquiries without requiring Ministerial approval.

1 FASTS submission to Senate Inquiry into Australian Research Amendment Bill 2006


3 Australian Research Council Amendment Bill 2006 - Explanatory Memorandum


5 Ibid

6 Australian Research Council Amendment Bill 2006

7 Government Senator’s Report

8 FASTS submission to Senate Inquiry into Australian Research Amendment Bill 2006

9 FASTS media release “CSIRO must make hard decisions” 30/1/06

10 National Tertiary Education Union submission to the Senate Inquiry into the Australian Research Council Amendment Bill 2006

Senator KIRK (South Australia) (11.49 pm)—I seek leave to incorporate Senator Crossin’s speech on the second reading debate on the Australian Research Council Amendment Bill 2006.

Leave granted.

Senator CROSSIN (Northern Territory) (11.49 pm)—The incorporated speech read as follows—

This bill includes appropriation of ARC funding for 2008-09 and a range of other measures.

The bill also amends the ARC Act 2001 in many ways to implement changes to the ARC governance arrangements as recommended in the Uhrig Review.

The bill provides for the “retirement” (a nicer way of putting abolition) of the ARC Board; the Minister to appoint a CEO directly responsible to the Minister; establishment of new governance arrangements; it updates annual funding caps.

The bill allows for the creation of and appointments to designated committees by the Minister. These committees provide advice to the CEO to pass on to the Minister.

The ARC will have to provide an annual strategic plan and annual report to the Minister who will
issue a statement of expectations to the ARC who in turn will respond with a statement of intent.
In short, the primary purpose of this bill is to abolish the ARC Board and give their powers to either the CEO or the Minister. Since the CEO will be appointed by the Minister, with no necessity to seek or take advice, the Minister will clearly call the shots.

These changes will effectively give the Education and Science Minister complete control over ARC funding and operational processes. In so doing it may well be seen as threatening the integrity of the ARC as an independent institution largely free of political manipulation.

While we might agree that public bodies such as the ARC need to be accountable and transparent, we do not believe that this bill achieves this in any way, shape or form. It has the potential to do the exact opposite in fact. We believe substantial amendments are necessary to achieve accountability and transparency.

Government claim the need to replace the Board with a CEO is to remove confusion between the Board and CEO. This seems to be a highly dubious claim.

The abolition of the Board is unnecessary – as expressed by the AVCC in their submission to the Senate Inquiry into the provisions of this bill (Submission 5 page 2): “…the role of the Board is to provide leadership concerning the organisation, assure accountability for decisions arising and advise the CEO on matters of strategic importance; whereas the role of the CEO is to implement such directions howsoever he/she may see fit. There is a separation between governance and process.” This seems a fairly clear distinction to me, so why the confusion? Just what confusion has there been in practice? This would appear to be just government beat up.

The Senate Employment, Workplace Relations and Education Committee inquired into the provisions of this bill and tabled their report on 2nd June 2006.

The Opposition Senators Report summed up the issues quite clearly, albeit in words that the government does not want to hear or listen to.

In it the Opposition senators say that this bill has the potential to undermine the integrity and independence of the ARC, as the Board has been a buffer between Government politically driven agendas and an independent research body.

It will, if passed unchanged allow the government of the day to tamper with the work of the ARC. And this certainly happened under the most recent past Minister for Education and Science.

It will not, as claimed by the government, improve governance – it gives far too much power to the Minister for good governance. The past Minister Nelson actually interfered frequently in ARC funding matters and vetoed no less than 11 of the ARC funding decisions in 2 years. This bill would open the way for even more Ministerial intervention and interference in our national scientific research program.

Submissions made to the Senate Inquiry raised serious concerns about the ability of the ARC to remain independent in carrying out its role under this bill, with resulting loss of confidence in the ARC both at home and abroad.

The bill was however drafted with no proper consultation with stakeholders so their views on such matters as the independence of the ARC got no recognition.

Had they consulted, the government may well have got better advice on the needs to improve the ARC, but they would also have found that the stakeholders strongly support the current Board structure rather than an executive management template.

In their submission to the Senate Inquiry The Australian Academy of the Humanities said “… there is considerable value in having a Board rather than simply a line management model, particularly in functions which require a strong reputation and maintenance of integrity, and to forestall any suggestion that decisions are being made on other than appropriate grounds.” (Prof McIntyre, Committee Hansard 4th May p5).

Such a view, that a Board structure was highly preferable to a CEO and executive management structure was strongly supported in submissions and by witnesses appearing before the committee.

The Opposition Senators could also see no reason, other than political motives, in attaching the
appropriation of funding for 2008 – 09 to this bill. This Government is well aware that we do not block core funding for organisations, which is why they have attached the appropriation of funding to such an otherwise bad bill.

This, the inclusion of funding, is the only reason that we will not oppose the ARC Bill, but we are of the strong belief that major amendments are needed if this bill is not to damage the ARC both in terms of operations and reputation.

It is yet another example of a bill framed and drafted by an arrogant government hell bent on pushing through a political agenda while they have control of the numbers, whatever damage is done to our national research performance and reputation.

The political reality of this government is that it has shown itself to be most willing and eager to silence dissent and undermine those with contrary views. It has done this ruthlessly in Indigenous Affairs, Workplace relations and student unions. This bill is yet another example of this – it will do nothing to deliver better governance or accountability but simply open the door for political manipulation of the ARC.

This bill enables the Minister not only to appoint the CEO but also members of committees, including the College of Experts. All committees become “designated committees” and as such the Minister has unfettered powers of appointment. Again what more can we say save this leaves the door even wider open for political intervention and manipulation.

It is hardly any wonder then that the NTEU conveyed to the Committee concerns from international scholars who provided peer assessed grant applications which were often rejected by the former Minister – this resulted in uncertainty and lack of confidence in the approval process. (Opposition Senator Report page 5 para 2.27)

Furthermore the Committee’s attention was drawn to a point made by the Forum for European-Australian Science and Technology Cooperation in their submission (Submission 3 page 1). They claim that this bill as it stands will prevent Australian researchers from participating in international research programs.

Again, hardly a good point to have standing against us internationally and something that, had the bill been drafted with more consultation and consideration of what was being said, could have been avoided.

Evidence put to the committee both in submissions and by witnesses at hearings strongly favoured amending the bill to ensure that peer and expert review are protected and the Minister’s role and relationship to this process are clearly defined.

Another area of concern is the removal from the Board of the capacity to initiate its own inquiries into research matters, and passing this power to the CEO. Just how this would happen and what powers of approval if any the Minister might have were unclear. It was however felt that the ARC should retain the capacity to conduct research related reviews.

In summary then the Opposition do not support the majority of the changes to the ARC governance provisions.

There is no evidence to support these changes – there is no real confusion between Board and CEO, their roles are clear, so this is no reason for the changes – it is a furphy.

The Minister has no need of any further powers – as proved by the past Minister he intervened frequently under the present rules.

This bill will quite simply enable the Minister of the day to exercise more unfettered power. There is no guarantee that the CEO will really be independent from the Minister. There is no guarantee that the committees will be truly independent. There is no guidance on Ministerial appointments to committees. These are all major deficiencies with this bill.

There is nothing in this bill that will enhance Australian research quality or performance.

Other than the submission from the department, most other submissions to the Senate committee expressed concern that the changes in the bill would put at risk not only the ARC’s independence and accountability but Australia’s international reputation.

We can however just add that to the ever growing list of areas where our reputation under this gov-
eminent is heading downhill fast – our handling of
refugees by forcing them off shore, and our own
workplace relations which severely disadvantage
the workers are but two others.

This is a bad bill as it stands. It needs major
amendments if it is not to further erode our inter-
national reputation and the morale of our research
establishment.

Substantive amendments are needed to retain the
Board with oversight and advisory capacities;
have the CEO with more powers to establish ad-
visory committees and report decisions direct to
the Minister.

The College of Experts should be retained as an
independent committee, and the ARC should re-
tain the ability to initiate and conduct enquiries
over research matters of interest.

Senator COLBECK (Tasmania—
Parliamentary Secretary to the Minister for
Finance and Administration) (11.50 pm)—To
provide the quadrella of incorporations, I
thank senators for their contributions to the
debate and seek leave to incorporate my
speech to conclude the second reading de-
bate.

Leave granted.

The speech read as follows—
I rise to conclude the second reading debate on
the Australian Research Council Amendment Bill
2006 and to thank the Senators for their contribu-
tions.

The Bill amends the Australian Research Council
Act 2001 to implement changes to the Australian
Research Council’s (ARC) governance arrange-
ments in response to the Government’s endorse-
ment of the recommendations of the Review of
the Corporate Governance of Statutory Authori-
ties and Office Holders by John Uhrig.

The assessment of the ARC against the recom-
mendations of the Uhrig Review found that the
functions of the ARC are best suited to the ex-
ecutive management template. The Bill will en-
hance the ARC’s governance arrangements to
make it fully consistent with this template. This
includes retiring the ARC Board and transferring
the majority of the Board’s functions and respon-
sibilities to the Chief Executive Officer of the
ARC.

The Bill allows for the creation of, and appoint-
ments to, designated committees which will pro-
vide advice to the Chief Executive Officer.

The Chief Executive Officer will receive input on
research matters directly from an Advisory Com-
mittee, which will be created as a designated
committee under the amended provisions of the
Act. As the Minister indicated in her second read-
ing speech in the House, the Advisory Committee
will not look at individual grant applications. It
will focus on providing strategic advice on mat-
ters related to research and the operations of the
ARC.

As is the case under the current ARC Act, the
Minister for Education, Science and Training will
continue to be responsible for approving or not
approving recommendations for research funding.
The College of Experts will be maintained as a
designated committee, as it currently is. It will
continue to play a key role in the ARC’s peer
review processes, particularly through the consid-
eration of applications for funding under the Dis-
covery-Projects programme.

The Minister has stated publicly that she wants to
be able to have faith in the independence and the
integrity of the ARC’s peer review processes. The
Australian National Audit Office report on the
ARC’s management of research grants, released
in May, stated that the ARC has a substantial
peer-review process in place, with a strong focus
on research merit and national benefit, enabling
the ARC to select and fund high calibre research.
The College of Experts will make funding rec-
mendations to the Chief Executive Officer,
who will in turn provide the Minister with advice.
This will expedite the ARC’s funding processes,
provide greater certainty to researchers about the
future of their ARC funding and allow the ARC to
respond quickly and flexibly to emerging priori-
ties.

The changes to the ARC indicates that the out-
comes of the recommendations of the Uhrig Re-
view are being effectively implemented by Gov-
ernment, ensuring clear lines of accountability
from the Minister down to the agency and imple-
menting better corporate governance in the public sector.

As announced in the 2004 $5.3 billion package, Backing Australia’s Ability. Building our Future through Science and Innovation, the Australian Government signalled its ongoing commitment to the role of the ARC in the national innovation system by continuing to maintain the doubling of its programme funding that was announced in 2001.

Under the package the Government committed an additional $1.5 billion over five years for the ARC to 2010-2011. This commitment reflects the value and importance to the Australian Government of funding high quality research and maintaining the integrity of the ARC.

I commend the Australian Research Council Amendment Bill 2006 to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator STEPHENS (New South Wales) (11.51 pm)—by leave—I move together the Opposition amendments standing in my name on sheet 4979:

(2) Schedule 1, page 8 (after line 11), after item 12, insert:

12A Subsection 42(2)
Repeal the subsection, substitute:

(2) The plan must be in writing and must not be given to the Minister unless it has been approved by the Board.

(4) Schedule 2, page 17 (after line 16), at the end of the Schedule, add:

3 At the end of section 50
Add:

(5) The Minister must ask for and consider the advice of the Board before making a determination.

(5) Schedule 2, page 17 (after line 16), at the end of the Schedule, add:

4 After subsection 51(3)
Insert:

(3A) The Minister must cause a copy of the determination under paragraph (2)(b) to be laid before each House of Parliament no later than 1 October for the year.

(6) Schedule 2, page 17 (after line 16), at the end of the Schedule, add:

5 After subsection 52(2)
Insert:

(2A) A recommendation must not be made unless it has been subject to peer or expert review by the ARC.

(7) Schedule 2, page 17 (after line 16), at the end of the Schedule, add:

6 At the end of section 52
Add:

(5) Where the Minister does not approve a proposal or makes any changes to a proposal, the Minister must table in each House of the Parliament:

(a) the specific area and topic of the proposal; and

(b) a statement of reasons for not approving or for amending the proposal.

(8) Schedule 2, page 17 (after line 16), at the end of the Schedule, add:

7 At the end of section 52
Add:

(6) Material tabled under subsection (5) must not breach the privacy of any person who has submitted the proposal.

We also oppose schedule 1 in the following terms:

(1) Schedule 1, items 1 to 12, TO BE OPPOSED.

(3) Schedule 1, items 13, 14, 19, 23 to 37, 39 to 41, 44, 45, 47, 48, TO BE OPPOSED.

Speaking briefly to our amendments, the amendments are moved to protect the integrity of the ARC and its peer review processes from meddling ministers. The amendments
seek to retain the board of the ARC as an important safeguard against politicisation by this government. They enshrine peer and expert review as the main mechanisms used to determine research funding recommendations to the minister. In my speech on the second reading I outlined the importance of the fact that the minister’s unfettered power to change or abolish peer review could damage Australia’s research reputation. The amendments reject the government’s attempt to make the CEO completely vulnerable to ministerial interference. We would do this by first making sure that the CEO is appointed responsibly and is not directly answerable to the minister.

The amendments also move to reject the government’s attempt to appoint the ARC’s committees directly. The Department of Education, Science and Training tried to tell the Senate committee inquiring into this bill that there was no change to the minister’s powers. They said:

I think the first thing to point out is that the amendments actually maintain the minister’s decision-making role in appointments to designated committees and in the grant approval processes. The legislation does not enhance or diminish that; it maintains it.

That is simply not true. The bill before us and the act as it stands today are substantially different. Even the ARC concurred at the recent Senate estimates hearings that this bill is a radical departure from existing arrangements. A sensible role for the minister to play under the current act is to outline priorities and expectations for statutory bodies and lay out clear guidelines to meet those priorities. Meddling with the internal management of the ARC, its staff and its committees is not good governance.

The amendments propose a 1 October deadline by which the minister must table approved grants in every calendar year. That would provide much-needed planning security for universities and job security for many academics who rely on grant funding for employment. Finally, the amendments give the CEO enhanced responsibilities. It should be the CEO’s operational responsibility to develop and present the organisation’s strategic plan to the minister. I commend the amendments to the chamber.

**Senator STOTT DESPOJA** (South Australia) (11.54 pm)—The Australian Democrats will be supporting the Labor amendments. I just want to clarify that Senator Stephens was addressing amendments (1) to (3) only?

**The CHAIRMAN**—It is amendments (1) and (3) on sheet 4979.

**Senator STOTT DESPOJA**—I am just clarifying that Senator Stephens was addressing only those amendments.

**Senator Stephens**—I was covering them all.

**Senator STOTT DESPOJA**—That is what I thought. In that case, I will also cover the lot now in relation to the Democrat position on the Labor amendments.

**The CHAIRMAN**—You are most welcome to do so.

**Senator STOTT DESPOJA**—Thank you. In relation to retaining the board, obviously Labor’s amendments simply oppose the provisions in the bill that deal with the abolition of the board. We have some sympathy for that position, so we will be supporting the amendments. In relation to no designated committees, I see that the Labor approach is again to simply oppose the provisions that deal with the designated committees. That is fine. On the peer review process, as I have discussed with the Labor opposition, there is no specific reference in the Labor amendments to the college of experts, and obviously that is a difference that you can see between the Democrat amendments...
that I will move shortly and the Labor amendments. I understand that Labor is keen to preserve the peer review process by retaining the board, and also through the amendment that they are dealing with after subsection 52(4). We will accept that.

In terms of initiating inquiries, we have a slightly different approach, but we are trying to come to the same end. I note from the running sheet that we are not in direct opposition and that it does not seem to be conflicting, so I think we are more than happy to support Labor and see what happens. The approach of the Labor Party is to repeal the part of the bill that stripped the ARC’s previous power to initiate inquiries, and it is happy to retain the act’s provisions on this.

Senator Stephens and others who have been involved in this process would note that the Democrats have found it somewhat confusing, or a little unsatisfactory, that in both the Senate committee process and through the estimates committee process I was unable to get a definitive response from the government and the department—for partly understandable reasons, I might add—as to whether or not the ARC retained the power to initiate its own inquiries, but specifically whether or not the CEO could initiate those inquiries without reference to, approval from or consultation with the minister. I am sure that the advisers are more than aware of the questions that I asked and the answers that I received on two occasions on that issue.

Before anyone advises me about the Public Service Act and the provisions in it, I am well aware of those provisions. However, there was still some element of uncertainty as to whether or not the CEO required permission from the minister. I note that in the case of the Labor Party amendments, the Labor Party has said that the board does not actually have to get the approval of the minister before initiating inquiries but merely consult the minister. We think this is an appropriate way for any statutory agency to operate—keep the minister informed and seek advice where relevant. So there is not a problem, as I understand it, with these Labor Party amendments in terms of the act as it currently stands.

However, the Labor Party and others would be aware of concerns that have been expressed by organisations which provided input into the Senate committee process. On that note, because I have incorporated my speech on the second reading, I do want to make a very clear point, given that committee processes seem to be a matter of debate at the moment. It is my understanding—and I am happy to be corrected if it is wrong—that the chair’s report into this legislation did not even refer to the criticisms that were brought up by sector groups. The government needs to understand just how offensive and insulting that was. That was certainly how it was perceived by groups that have a vested interest in their communities and their sectors but do not necessarily have a partisan perspective. They went to a lot of trouble to provide written submissions and verbal submissions, to answer questions and to turn up to hearings, and then they were not even cited in the chair’s report. That is a bit much! I know the government is aware of those criticisms, even if it did not refer to them in the majority report.

The federation, or FASTS, said that the current act unnecessarily diminishes the power of the board to initiate inquiries by requiring it to consult the minister. So, even though the Labor Party’s amendment is borne out of a dissatisfaction with the current wording of the act, and that is what it seeks to do with this amendment, the Democrats still have concerns that in fact that is not really good enough either. I have not been satisfied with the responses to the questions I have asked during a number of processes,
and clearly organisations such as FASTS are also not happy. So our amendment, which I foreshadow, gives the CEO the ability to initiate inquiries without seeking ministerial approval, thus helping the ARC to fulfil its statutory requirements in providing high-level advice to the minister.

Essentially, we are supporting the Labor Party amendments. I think they are supporting our amendments too. We are trying to get to the same thing—trying to alleviate what we consider to be some of the worst aspects of this legislation and improve it in some very key ways to do with the College of Experts, the peer review process, the powers of the board and the role of the CEO. And I might put on the record once again my strong concern and that of my party about making sure that the CEO’s ability to initiate an inquiry remains. I can speak to our amendments in more detail or maybe more quickly when they are moved, but in the meantime the Democrats give our support to the opposition amendments.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (12.01 am)—The government will not be supporting the amendments moved by the Labor Party. I take it that the comments made by Senator Stott Despoja were statements rather than questions, so I will not directly respond to those—and, having listened to the comments that she made, I would say that essentially I would be giving her the same answers that she has received before. Whether she was satisfied with them or not at that stage, I suspect that she would get the same response now. So I will just indicate that we will not be supporting the amendments.

Senator STOTT DESPOJA (South Australia) (12.02 am)—Sorry, Chairman. I was talking committee business with the chair. I just want to clarify that the parliamentary secretary was saying to me, through you, that there was not necessarily a different answer from the government on the queries that I had. I did note that at the last estimates committee hearings the department undertook very generously to examine this issue once again—and I think there is no change to that perspective. I am sorry, Senator, if I have got that wrong, but I just wanted to give you an opportunity to repeat that so I can make sure that is the case.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (12.03 am)—Senator, no need to repeat it; you have proved once again that ladies can do two things at once.

The CHAIRMAN—We are dealing first with the items in schedule 1 which Senator Stephens indicated that the opposition opposes.

Question put:
That schedule 1 items 1 to 14, 19, 23 to 37, 39 to 41, 44, 45, 47 and 48 stand as printed.

The committee divided. [12.08 am]

(The Chairman—Senator JJ Hogg)

Ayes……… 33
Noes……… 29
 Majority…… 4

AYES
Aberz, E. Adams, J.
Barnett, G. Bernardi, C.
Boswell, R.L.D. Brandis, G.H.
Calvert, P.H. Chapman, H.G.P.
Colbeck, R. Coonan, H.L.
Eggleston, A. * Ellison, C.M.
Ferris, J.M. Fielding, S.
Ferravanti-Wells, C. Fifield, M.P.
Heffernan, W. Johnston, D.
Joyce, B. Lightfoot, P.R.
Macdonald, I. Mason, B.J.
McGauran, J.J. Minchin, N.H.
Nash, F. Parry, S.
Patterson, K.C. Payne, M.A.
Thursday, 22 June 2006

SENATE

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The question now is that opposition amendment (2) and amendments (4) to (8) on sheet 4979 moved by Senator Stephens be agreed to.

The committee divided. [12.13 am]

The Chairman—Senator JJ Hogg

Ayes........... 29
Noes........... 33
Majority....... 4

AYES

Allison, L.F.  Bartlett, A.J.J.
Brown, B.J.  Brown, C.L.
Crossin, P.M.  Evans, C.V.
Faulkner, J.P.  Forshaw, M.G.
Hogg, J.J.  Hurley, A.
Kirk, L.  Ludwig, J.W.
Lundy, K.A.  Marshall, G.
McEwen, A.  McLucas, J.E.
Milne, C.  Nettle, K.
O’Brien, A.J.M.  Polley, H.
Siewert, R.  Stott Despoja, N.
Sterle, G.  Stott Despoja, N.
Webber, R.  Wong, P.
Wortley, D.  

NOES

Abetz, E.  Adams, J.
Barnett, G.  Bernardi, C.
Boswell, R.L.D.  Brandis, G.H.
Calvert, P.H.  Chapman, H.G.P.
Colbeck, R.  Coonan, H.L.
Eggleston, A.  Ellison, C.M.
Ferris, J.M.  Fielding, S.
Fierravanti-Wells, C.  Fifield, M.P.
Heffernan, W.  Johnston, D.
Joyce, B.  Lightfoot, P.R.
Macdonald, I.  Mason, B.J.
McGauran, J.J.  Minchin, N.H.
Nash, F.  Parry, S.
Patterson, K.C.  Payne, M.A.
Santoro, S.  Scullion, N.G.
Trood, J.M.  Vanstone, A.E.
Watson, J.O.W.  

PAIRS

Bishop, T.M.  Campbell, I.G.
Campbell, G.  Campbell, G.
Carr, K.J.  Conroy, S.M.
Conroy, J.A.L.  Hutchins, S.P.
Donaldson, M.  Ray, R.F.
Trood, R.  Sherry, N.J.

* denotes teller

Question agreed to.

Senator STOTT DESPOJA (South Australia) (12.17 am)—I move Democrat amendment (2) on sheet 4937:

(2) Schedule 1, item 5, page 6 (after line 11), after paragraph 33B(c), insert:

(ca) to initiate inquiries on his or her own volition for the purpose of fulfilling the ARC’s statutory functions;
The Democrats intend to call a division on this amendment because, as previously indicated, it is pivotal. The amendment clarifies that the CEO of the Australian Research Council can actually initiate inquiries without being required to seek permission from or consult with the minister of the day. Because the Labor amendment has gone down and because the current act’s provision in relation to initiating own inquiries has not been successful, we seek to put in this amendment to make it absolutely clear that the CEO has that responsibility and that power in order for the CEO to fill the statutory responsibilities of the ARC, and that is to initiate their own inquiries.

Question put:
That the motion (Senator Stott Despoja’s) be agreed to.

The committee divided. [12.19 am]
(The Chairman—Senator JJ Hogg)

Ayes…………. 29
Noes………….. 33
Majority………. 4

AYES
Allison, L.F. Bartlett, A.J.J.
Brown, B.J. Brown, C.L.
Crossin, P.M. Evans, C.V.
Faulkner, J.P. Forshaw, M.G.
Hogg, J.J. Hurley, A.
Kirk, L. * Ludwig, J.W.
Lundy, K.A. Marshall, G.
McEwen, A. McLucas, J.E.
Milne, C. Moore, C.
Murray, A.J.M. Nettle, K.
O’Brien, K.W.K. Polley, H.
Sievert, R. Stephens, U.
Sterle, G. Stott Despoja, N.
Webber, R. Wong, P.
Wortley, D. 

NOES
Abetz, E. Adams, J.
Barnett, G. Bernardi, C.
Boswell, R.L.D. Brandis, G.H.
Calvert, P.H. Chapman, H.G.P.
Colbeck, R. Coonan, H.L.

Eggleston, A. * Ellison, C.M.
Ferris, J.M. Fielding, S.
Ferravanti-Wells, C. Fifield, M.P.
Heffernan, W. Johnston, D.
Joyce, B. Lightfoot, P.R.
Macdonald, I. Mason, B.J.
McGauran, J.J.J. Minchin, N.H.
Nash, F. Parry, S.
Patterson, K.C. Payne, M.A.
Santoro, S. Scullion, N.G.
Troeth, J.M. Vanstone, A.E.
Watson, J.O.W.

PAIRS
Bishop, T.M. Campbell, I.G.
Campbell, G. Macdonald, J.A.L.
Carr, K.J. Trood, R.
Conroy, S.M. Kemp, C.R.
Hutchins, S.P. Humphries, G.
Ray, R.F. Ferguson, A.B.
Sherry, N.J. Ronaldson, M.

* denotes teller

Question negatived.

Senator STOTT DESPOJA (South Australia) (12.22 am)—I move Australian Democrats amendment (1) on sheet 4937:
(1) Schedule 1, item 3, page 4 (after line 16), after Part 2, insert:

7 Establishment of the College of Experts
The ARC College of Experts is established by this section.

8 Functions of the College of Experts
The functions of the ARC College of Experts are to:
(a) assess and rank ARC grant applications submitted under the National Competitive Grants Program according to research excellence;
(b) make funding recommendations to the ARC CEO;
(c) provide strategic advice to the ARC on emerging and cross-disciplinary developments.

9 Membership and appointment of the College of Experts
(1) The College of Experts is to consist of not less than 75 members.
(2) The ARC must appoint members with demonstrated expertise in their field that are experts of international standing drawn from:
(a) the Australian research community; and
(b) the higher education sector; and
(c) the industry and public sector research organisations.

10 Terms and conditions of appointment of members of the College of Experts
(1) A member of the College of Experts is appointed for a period of three years.
(2) A member of the College of Experts may resign by giving the CEO a written resignation.
(3) The Minister may only terminate the appointment of a member of the College of Experts following an independent inquiry on the ground of misbehaviour or of physical or mental incapacity.
(4) For the purposes of subsection (3), misbehaviour includes but is not limited to academic fraud, conflict of interest, bribery or corruption, bankruptcy, excessive absence from duty or being convicted in Australia of an offence punishable by imprisonment for 12 months or longer.

The amendment relates to the issue of the College of Experts. It deals with establishing the College of Experts, the functions of the College of Experts, the membership and appointment to the College of Experts, and the terms and conditions of appointment of members of the College of Experts. The idea behind this amendment is to ensure that the College of Experts is enshrined in legislation. The Democrats believe that the college is integral to the ARC’s peer review process, but it is not currently recognised. I note that in the bill’s explanatory memorandum, in the committee process and in other environments the government has stated that it is committed to the College of Experts and that it will be retained, but that is not evident in the legislation. Thus, the Democrats seek to enshrine that. The amendment will ensure that the College of Experts is in the legislation in its own right.

In relation to the functions, the amendment deals with the functions of the college to ensure that they cannot be changed to suit and that its critical role in the peer review process is not threatened. It makes clear the function and the existence of the College of Experts so that they cannot be changed. The amendment ensures that the College of Experts is not exposed to the same degree of ministerial intervention as the designated committees, so the minister is not responsible for determining the functions.

In relation to membership and appointment, the amendment stipulates a minimum number of members, thus guaranteeing that a diversity of interests is represented. In addition, it guarantees that the membership of the College of Experts is drawn from a wide range of experts of international standing in order to ensure that informed decisions are made about grants and that they are made across all research areas. The amendment stipulates that the members are appointed by the ARC and not by the minister. That is fundamental, ensuring the minister cannot be accused of making political appointments to the college. We actually think that is pretty good protection for the minister.

This provision will contribute to the maintenance of the college, its independence and thus, we presume, the confidence of the research sector and the public in grants decisions. The terms and conditions of appointment are stipulated, regulating the terms and conditions under which the members of the experts’ college are appointed, regulating the time frame of appointments and the conditions under which a member can resign. It also clarifies the conditions under which a
minister can terminate a member’s appointment, ensuring transparency and accountability in that situation and providing guidelines for what is defined as ‘misbehaviour’.

We feel strongly about these amendments, but we will not divide on them. I want to reiterate that this bill has been subject to a degree of scrutiny and discussion by a number of people, but I have to say that it has been of particular interest to the Australian Democrats. I did not anticipate that it would be dealt with in this fashion at this time of night in a way that is almost cursory. Just because I have tried to facilitate the Senate’s business tonight, it does not mean that this bill is any less important for the Australian Democrats.

I commend Democrat amendment (1) and hope that it will receive the support of the chamber. If people want to indicate how they will vote, that will be sufficient for me. If opposition parties, including Family First, want to put on record how they will vote, that would be appreciated and I will not call a division.

**Senator Stephens** (New South Wales) (12.27 am)—Labor finds the prescriptive nature of the amendment relating to the College of Experts a bit difficult. We do not believe that the parliament should be setting up such a specific formula for peer review. The government and the parliament should set out clear guidelines for what we want the ARC to achieve and make sure that those objectives are achieved. The mechanics of how those processes are achieved—for instance, the mechanics of peer review and international best practice change—are really up to the body with the expertise, and that is not the parliament. We should not be limiting the ARC’s ability to change to update its processes. But we are supporting the amendment, because we believe that some sort of protection would be better than nothing.

**Question negatived.**
**Bill agreed to.**
**Bill reported without amendment; report adopted.**

**Third Reading**

**Senator Colbeck** (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (12.28 am)—I move:

That this bill be now read a third time.

**Question agreed to.**
**Bill read a third time.**

**LAW ENFORCEMENT INTEGRITY COMMISSIONER BILL 2006**
**LAW ENFORCEMENT INTEGRITY COMMISSIONER (CONSEQUENTIAL AMENDMENTS) BILL 2006**
**LAW ENFORCEMENT (AFP PROFESSIONAL STANDARDS AND RELATED MEASURES) BILL 2006**

**Second Reading**

Debate resumed from 22 June, on motion by **Senator Ian Campbell**:

That these bills be now read a second time.

**Senator Ludwig** (Queensland) (12.29 am)—I seek leave to incorporate my speech on the second reading debate on the Law Enforcement Integrity Commissioner Bill 2006, the Law Enforcement Integrity Commissioner (Consequential Amendments) Bill 2006 and the Law Enforcement (AFP Professional Standards and Related Measures) Bill 2006.

**Leave granted.**

The speech read as follows—

**Key Features of the Bills**

Mr President, I rise to speak on three Bills that are being moved cognate:
the Law Enforcement Integrity Commissioner Bill
- the Law Enforcement Integrity Commissioner (Consequential Amendments) Bill
- the Law Enforcement (AFP Professional Standards and Related Measures) Bill.

Labor agrees with and certainly supports the intent of these Bills. In fact, it is a shame we could not have seen them earlier.

The genesis of a Federal Law Enforcement Integrity Commission appears to have derived from a reference the then Labor Attorney-General Michael Lavarch sent to the Australian Law Reform Commission more than ten years ago.

The ALRC recommended such a body in its report of November 1996. It took the Liberals from 1996 to June 2004 to actually adopt this proposal as party policy.

Needless delay is clearly a hallmark of this Minister.

Since then it has taken Senator Ellison a full two years to get his act together and bring the Bills before the Parliament.

Funding for a Law Enforcement Integrity Commissioner was announced in 2005 Budget, and the Bill has itself been sitting on the forward list of urgent Bills for well over a year.

In the time passed since the announcement of these Bills, we have seen the leaked secret internal Customs report that blew the lid on corrupt and criminal activity at Sydney Airport, sparking the Wheeler review.

We have seen a couple of ACC-seconded officers charged in relation to corruption offences.

We have seen extraordinary allegations made in relation to corruption of Commonwealth officials from a range of agencies in the Torres Strait.

At this point let me state unequivocally for the public record—there is no evidence of systemic corruption in Australian Commonwealth Law Enforcement agencies.

The public can and should have confidence in the integrity of Australian Federal Police, Australian Crime Commission and Australian Customs Service officers who do an excellent job in protecting the community from some pretty awful threats in terrorism, drug trafficking, sex slavery, child pornography and many other crimes.

Crime is big business—the there are huge amounts of money involved, and history shows us that criminals are willing and able to try to corrupt serving officers to stay a step ahead of the law.

It is absolutely vital therefore that the long-overdue Integrity Commission is ultimately established. Likewise, the AFP’s new professional standards regime is clearly a marked improvement on the current arrangements.

This is even more so because, since September 11, our nation’s law enforcement agencies have had a dramatic increase in the range and availability of powers.

Some five long years after September 11, the Howard Government is still fiddling with these powers on a semi-regular basis, which doesn’t give you much confidence in their ability to rapidly assess an emerging threat and co-ordinate and deliver a proportionate response. At the same time as these powers are being expanded, the oversight regime has largely remained frozen—partially of course due to the Minister’s inability to progress the legislation.

This legislation goes some way to striking the right balance of strong powers with strong oversight. To paraphrase Dr. AJ Brown, who appeared before the committee, these Bills represent the most significant change in Commonwealth integrity institutions in twenty years.

Let me foreshadow then, Labor’s broad support for this legislation, before I go on to the specifics of how the legislation is not good enough.

Firstly, we are disappointed in the fact that ACLEI has been given such a narrow jurisdiction to start off with—only extending to two agencies, the Australian Federal Police and the Australian Crime Commission.

Given the number of agencies at a federal level which wield law-enforcement powers—including the Australian Taxation Office, Customs, the Department of Immigration and others—this is a massive error.

Let me remind Senators of just what the Immigration Department has been up to under the life of this Government. This little shop of horrors that
poses as a Department of State while it has committed the following outrages:

- Willful ignorance of the law in relation to the duration of detention, specifically the test under s196 of the Act, and in direct conflict with numerous Federal Court cases that have set the precedent.
- Supervision of an institution that, according to newspaper reports, allegedly allowed repeated rape and sexual abuse of detainees, including one reported instance of rape of a mother in front of her toddler.
- Supervision of an institution that has certainly treated detainees with mental illness extremely poorly, including very young children.
- Wrongful detention of no fewer than 26 Australian citizens, and it’s not clear if this includes the tragic case of Cornelia Rau.
- Removal of one citizen who was apparently not fit to travel to the Philippines to survive off a charitable home for the poor and crippled.
- Transport of five detainees locked up in the back of a van for five hours without food, water, toilet or rest breaks.
- Export of women and children to the island of Nauru.
- Placing even mothers in the act of labour under guard and refusing the right of the family to take photographs of the newborn.
- Abrogation of its duty to properly supervise a contractor GSL, or alternatively, deliberate connivance with that organisation to conceal and cover-up, using what the ANAO called “considerable discretion as to what is reported” as an incident.

The question is – would all or some of this conduct constitute behaviour that fell within the Law Enforcement Commissioner’s ambit?

Yet, when we look at the definition of a law enforcement agency, we find something missing – this Department – which has caused so much human misery on so many people, all the while glibly and often wrongfully maintaining its authority to enforce the law – has in fact been left off the list of law enforcement agencies in the definition. Other agencies are missing too – Customs, for example; has uniforms, guns, powers of arrest and detention, power to question, search and seize, etc. So while it swims, flies and even waddles, although I wouldn’t go so far as to say it quacks, this government plainly fails to recognise it for what it is.

Customs holds almost identical powers to police, but they too are missing from the list of law enforcement agencies.

There are other agencies like ASIC and the ATO who have investigatory and law enforcement powers to access stored communications, issue notices to produce etc. that would also benefit from oversight.

Instead of putting agencies like these in the legislation, the Minister proposes to add them at his whim and convenience by regulation. There is no guarantee that any of these agencies are or will be able to be investigated, and that is completely unacceptable.

Why should a Minister have a roving discretion to decide when an agency should or should not be investigated for corruption?

Perhaps the Minister and the Government Senators can explain —what is the public benefit in a Minister maintaining the power to add and remove agencies at whim?

This is not only dumb policy, it is dumb politically. Revealing a Government that is both tired and lazy, that’s too obsessed with its extreme ideology rather than middle Australian values and all too ready to be kicked out of office.

There are not that many federal agencies —how hard is it to sit down, work out what powers each has and make a final and definitive determination as to whether they are in fact a law enforcement agency, or exercise law enforcement powers so akin to a law enforcement agency to warrant them...
being treated as such for the purposes of oversight?

That is what sensible policy would do. Turning to each Bill specifically.

**Law Enforcement Integrity Commissioner Bill**

The Law Enforcement Integrity Commissioner Bill establishes the Australian Commission for Law Enforcement Integrity – or ACLEI – which is an anti-corruption body responsible for investigating allegations of corruption concerning the Australian Federal Police and the Australian Crime Commission, as well as state police officers seconded to those bodies. The number of overseen agencies may be expanded by regulation. Labor totally rejects the Ministerial power of veto into corruption investigations - a point I have already raised above.

ACLEI will have the powers similar to that of a standing Royal Commission. Essentially, the Commonwealth is following the lead of those states who have already set up similar bodies with similar powers to ACLEI.

I mentioned previously, there is no evidence of systemic or serious corruption in either the ACC or the AFP. Indeed, the situation we have here is completely different to the endemic corruption of the National Party regime led by Bjelke-Peterson in Queensland whose conduct was so bereft of anything approaching moral or ethical behaviour that it demanded the establishment of the Criminal Justice Commission, forerunner of the Crime and Misconduct Commission.

At least the community can rest safe in knowing there will never be another National party government again, anywhere, ever... but that’s another story.

The establishment of this anti-corruption commission is intended, instead, to provide a deterrent to such behaviour in the future, as well as to enhance public confidence in our federal crime-fighting bodies.

To return to the Bill – ACLEI may deal with corruption issues either by notification or on referral from the Minister, and it has the power to refer the investigation to another agency in certain circumstances.

The Commission also has the power to hold and conduct public inquiries on a range of corruption-related issues, on the request of the Minister.

Finally, a new Parliamentary Joint Committee will be created to oversee ACLEI. This is a matter of some concern to Labor, as it looks like a waste of cash. Both the Senate Legal and Constitutional Committee, and the Parliamentary Joint Committee of the Australian Crime Commission itself recommended that the PJCACC could take on this role.

On the one hand you have Senator Minchin making unfounded claims about how the Howard Governments attack on the Senate Committees will save money. On the other you have Senator Ellison establishing a new committee that even his own backbench says should have been rolled into the PJC on the ACC.

We look forward to the Government’s explanation of why the government is yet again ignoring its back bench.

**Law Enforcement Integrity Commissioner (Consequential Amendments)**

I might speak shortly on the consequential amendments bill. The Bill purports to make a number of recommendations to the Telecommunications (Interception) Act 1979.

That Act was amended by the recently passed Telecommunications (interception) Amendment Act 2006.

Part of Subitems 31(1) and (2) of Schedule 1 amended the title of the Principal Act from “Telecommunications (Interception) Act 1979”, to “Telecommunications (Interception and Access) Act 1979”.

The commencement of these items took effect on proclamation, which was done on June 13th.

However, reference is made throughout these Bills to the principal Act under its previous name. Labor successfully moved amendments in the Senate to bring the Bill up to date, and a similar error in the main bill.

In addition, the legislation as originally proposed by the Government purported to add a new paragraph (ea) to Schedule 2 of the Administrative Decisions (Judicial Review) Act after an existing
paragraph (e). However a paragraph (ea) already exists in that Act. Labor again was successful. It is that kind of sloppy inattention to detail that we have come to expect from this Government. It is the type of blase administration that would lead one to enact redundant laws that may have to be revisited soon after and amend or repeal them. It is a sign of high handed arrogance that the Attorney-General, in whose portfolio the TJ legislation resides, did not prepare a suitably amended Bill before dumping it on the table of Parliament in the other place. It is also the sign of an administrator who is less than firm in his grip on the job.

What else can we expect from an Attorney who ignores even the friendly and sage advice of his own backbench - on sedition, for example. He is either so busy trying to find a new political wedge or so drunk on his diminishing power that he cannot see the errors that lie plainly before him.

Labor was successful in excising the shoddy drafting. In future the Government should present consequential amendments to the parliament only when they are fit to be dealt with.

**AFP Professional Standards Bill**

The Professional Standards Bill updates the complaints procedure for the AFP, to bring in – as per the Explanatory Memoranda – a `contemporary managerial’ style of complaints handling.

The amendments in this Bill are the outcome of the 2003 Fisher Review into professional standards in the AFP, which recommended the repeal of the Act that previously covered this area, the Complaints (Australian Federal Police) Act 1981 and the establishment of a new complaints regime with clear definitions of the types of conduct which it covered.

The Professional Standards Bill categorises misconduct into four levels of seriousness:

- Category 1: Inappropriate conduct
- Category 2: Minor misconduct or inappropriate conduct that reveals unsatisfactory behaviour
- Category 3: Serious misconduct
- Category 4: Corrupt conduct

. . . and allows the AFP Commissioner and the Ombudsman to assign certain behaviours to a category of conduct.

Misconduct will be dealt with according to the category to which it relates. The lower levels will be dealt with by managers whereas higher complaints, and complaints of corrupt conduct, will be investigated by a specific internal unit or ACLEI, respectively. Importantly, ACLEI must be notified of any instance of corrupt conduct.

Again, the Minister has the power to arrange an inquiry concerning the conduct of the AFP or anything else to do with the AFP. Investigators under this legislation have wide-ranging powers, such as the power to enter AFP property, and the power to direct and AFP appointee to provide information.

The Federal Ombudsman is also given powers under the new regime. As I have already mentioned, he or she can determine —in conjunction with the Commissioner —what kinds of issues belong to different categories. The Ombudsman will also conduct annual reviews of the operation of the professional standards section of the AFP.

**The Committee’s View**

As I have already said, all three Bills are largely welcomed by both Labor and were referred to the Senate’s Legal and Constitutional Committee, which made a large number of sensible recommendations to improve the Bill.

**Jurisdiction**

Firstly, the Committee examined the issue of the jurisdiction of ACLEI. As I have previously mentioned, ACLEI – as the Bill stands – only has the power to investigate allegations of corruption made against members of the AFP and the ACC, although that is expandable by regulation.

This is plainly ridiculous. To quote the Commissioner of the Federal Police, Mick Keelty, in referring to the oversight of ACLEI over Law- Enforcement bodies:

There is a gap here – and I do not want to name agencies – if you look at the powers, such as access to search warrants, access to the use of firearms and access to detention.

There’s an old saying - what is good for the goose is good for the gander – and it certainly is true
when you are talking about all important over-
sight powers.

As witnesses to the Committee argued, there are
gaps in the AFP’s effective jurisdiction over cor-
rupt conduct in other agencies – being limited to
the investigation of criminal matters in cases
where there was conduct that was corrupt but not
clearly criminal.

Finally, the Committee investigated the allowance
in the legislation for its jurisdictional expansion
by regulations. The final report stated, and I
quote, that ‘no rationale has been provided for
this potential expansion of jurisdiction by stages
via regulation’.

But it not just a matter of expansion. Any agency
actually listed by regulation could be removed
from the jurisdiction of the Integrity Commis-
sioner with the stroke of the Minister’s pen.

As such, the Committee has recommended that
other agencies be brought under the aegis of
ACLEI by legislative change rather than regula-
tion, and that the government should give a time-
frame for adding additional agencies to its juris-
diction.

**Right of Review**

At recommendation 13, the Committee also ad-
vised:

4.65 The committee recommends that the lower
level disciplinary matters (categories 1 and 2)
should be subject to internal review while more
serious matters (category 3) should be the subject
of external review for example, through the Ad-
ministrative Appeals Tribunal.

This begs the question, what is category 3 con-
duct?

Category three conduct is defined by the pro-
posed section 40RP in the professional standards
Bill as conduct that;

“i) is serious misconduct by an AFP appointee; or
ii) raises the question whether termination action
should be taken in relation to an AFP appointee; or

iii) involves a breach of the criminal law, or seri-
ous neglect of duty, by an AFP appointee; and”

is conduct of a kind that does not raise a corrup-
tion issue.”

So what then is defined as serious misconduct?

Section 40K (3) of the existing AFP Act defines
serious misconduct as:

“a) corruption, a serious abuse of power, or a
serious dereliction of duty; or

b) any other seriously reprehensible act or behav-
ior by an AFP employee, whether or not acting,
or purporting to act, in the course of his or her
duties as an AFP employee”

That is a very wide. It is even wider when you
consider that misconduct of category one and two
level, if committed in conjunction with category
three misconduct, must as per s4ORK (6) be
taken to belong to the category three conduct.

It is only natural, in the view of the Labor Party,
that someone who is being tarred with serious
allegations of this type, who:

• Has not been terminated and therefore has no
access to a claim for unfair dismissal, and
therefore

• Does not have access to an external inde-
pendent mechanism for review;

should certainly have access to external review.
That is common sense.

This is particularly the case with regards to law
enforcement, because there are plenty of exam-
pies in the past, in Australia and overseas of cor-
rupt officers conspiring to set up a whistleblower
on false allegations.

The Government moved amendments in the other
place that took up a number of the committees
recommendations. This was a welcome develop-
ment.

But a couple of recommendations that are of par-
ticular importance to Labor, and we won’t desist
our efforts to see that they’re acted on. At this
point I foreshadow that I will be moving Labor’s
amendments to deal with these recommendations
during the committee stage.

I’ll now briefly turn to the substantial amend-
ments to the Australian Security Intelligence Or-

I’m gravely concerned that these amendments
were not referred to the Parliamentary Joint
Committee on Intelligence and Security, whose
members and secretariat are all highly regarded
for their grasp of national security and intelligence matters.

Of course the Government has given assurances that these are relatively ‘minor’ amendments. But it is the Joint Committee, not the Government alone, that is best placed to make such assurances. Indeed, if there is sufficient review of new laws and powers covering security agencies before they’re enacted, the task and burden of operational oversight is both improved and made easier.

I encourage the government to refer these changes to the Parliamentary Joint Committee on Intelligence and Security, alternatively I’ll raise it with them myself.

I conclude with those remarks.

**Senator STOTT DESPOJA** (South Australia) (12.29 am)—Similarly, I seek leave to incorporate my speech on the Law Enforcement Integrity Commissioner Bill 2006 and cognate bills. I do so in the interests of time and not because this is not an important issue to me or the Australian Democrats.

Leave granted.

*The speech read as follows—*

I rise to speak to the Law Enforcement Integrity Commissioner Bill 2006, the Law Enforcement Integrity Commissioner (Consequential Amendments) Bill 2006 and the Law Enforcement (AFP Professional Standards and Related Measures) Bill 2006.

The Democrats applaud any moves to reduce corruption within Government law enforcement agencies and believe that this Bill is an important step in the protection of the integrity of our law enforcement agencies.

It has been suggested by academics in this area that significant reform has not been conducted for more than 20 years and is urgently needed. As such, I welcome the changes that the bill proposes.

Corruption can be an unfortunate side effect of power and responsibility and has the potential to pervade any area where that power and responsibility is exercised. It is crucial to responsible government that all measures are taken to prevent corruption occurring and the Federal Government should lead by example.

It is disappointing to note in the Bill that the scope of jurisdiction given to the Integrity Commissioner is only with regard to the AFP and the ACC.

If we are to have a truly accountable system and intend to rid our governmental agencies of corruption altogether we need to be aggressive in our approach, the first step being that we should give jurisdiction to the Integrity Commissioner to investigate all agencies that possess law enforcement powers.

Equivalent investigative bodies in New South Wales, Queensland and Western Australia already have a general jurisdiction, whereas the Commonwealth seems to be following the Victorian model which it initially criticised and said it was trying to avoid.

In a Joint Media Release on 16 June 2004, the Attorney-General and the Minister for Justice and Customs announced the intention of the Government to establish an independent anti-corruption body. They also stated in this media release that; No evidence exists of systemic corruption within the Australian Crime Commission and the Australian Federal Police.

The aforementioned Ministers made this claim despite there being two reports in the media in the two months prior to the announcement of Police Corruption within the ACC. To date, the Government has not acted expeditiously to tackle corruption.

They continue to be lack lustre by not allowing the Law Enforcement Integrity Commissioner to investigate corruption in all government agencies that possess law enforcement powers.

Agencies such as the Department of Immigration and Multicultural Affairs, the Australian Taxation Office, Australian Customs and the Australian Securities and Investment Commission have considerable power and responsibility in their decision making.

*Should these agencies fall under the purview of the Law Enforcement Integrity Commissioner, special care will have to be taken to ensure that private contractors who are employed by relevant...*
Commonwealth Agencies also fall under ambit of the Commissioner. Commonwealth Agencies increasingly are outsourcing important work to private contractors and there is an inevitable blurring of responsibilities between the private and public sectors as a result.

In our contemporary situation, the dynamic interactions between these two sectors can possibly lead to corrupt practices whereby one sector’s actions will bleed into the others.

This, therefore, represents a significant loophole and needs to be seriously addressed.

We believe it is not enough to simply limit the investigative scope of the Commissioner to personnel from Commonwealth Agencies tasked with law enforcement. Hence it is our position that the Commissioner’s powers should be extended to private personnel working for Commonwealth law enforcement agencies as well.

Take, for example, the Department of Immigration which considers compliance and detention and has discretion to decide over visa issues or the Australian Taxation Office which has the ability to choose which taxpayers should be audited and can make advisory or binding rulings over tax issues.

Dr A J Brown, Senior Lecturer at Griffith University and Senior Research Fellow at the Australian National University stated in the recent inquiry into the Bill that:

Unless broadened, the restricted jurisdiction of the proposed Integrity Commission will represent a missed opportunity to properly strengthen the public integrity regimes of the Commonwealth Government in a manner which comparative research indicates is now overdue.¹

The benefits of widening the jurisdiction of the Commission were also recognised by the Commissioner for the Australian Federal Police, Michael Keelty, who stated:

If we are serious about this, and if it is not just a quick fix, then the AFP could benefit in its investigations if the ACLEI had a wider remit than what is proposed in the bill.

The Government has made provisions in the bill for further agencies to be added to those which come under the jurisdiction of the Integrity Commissioner, however, the Government has provided for this through the prescription of an agency by regulation.

The effect of this means that the Government can just as easily remove an agency from the jurisdiction of the Commissioner whenever it pleases it to do so, this allows the Government to strip the Commissioner of independence and places the work of the office at the whim of the government of the day.

If this body is to be an independent statutory body as it is intended to be then the jurisdiction of the Commissioner must be widened through legislative changes. These changes should be introduced immediately.

By keeping the power to proscribe agencies within the power of the Government they are ironically allowing for the integrity of the Commissioner to be questioned. Critics will see the Commissioner as being reliant on the Government’s permission to conduct investigations.

Recognising that preventative measures are preferable to punitive measures, the Democrats believe that the Bill should encourage corruption resistance measures and training to become a substantive part of the Commission’s function. It was outlined by Dr Brown during the inquiry process that the Bill has an unbalanced focus on reactive measures to corruption rather than on proactive corruption resistance. Dr Brown submitted that:

The Bill currently provides insufficient legislative support to the ‘proactive’ detection and prevention functions of the Commission.

It is important that the Integrity Commissioner do as much as possible to investigate and prosecute instances of corruption however measures should be taken to reduce the likelihood of corruption within the AFP and ACC. This will reduce the likelihood of corruption and in turn reduce the costs involved with the investigation and prosecution of corruption.

I am also concerned with the operation of section 149 certificates.

The operation of these certificates allows for the Attorney-General to specify that the disclosure of information or a document would be contrary to
the public interest. The list of grounds on which the Attorney-General may issue a section 149 certificate is exhaustive.

The result of a section 149 certificate being issued is to prevent a disclosure that would otherwise be authorised or required by the Law Enforcement Integrity Commissioner Bill. It prevents:

- disclosures by law enforcement agency heads to the Commissioner (subclause 150(1)),
- documents or things being given to the commissioner or at hearings (subclauses 150(2) & (3)),
- disclosures by the head of a law enforcement agency to another government agency (clauses 151),
- disclosure by the Commissioner to the head of a government agency or a special investigator investigating alleged ACLEI Corruption (clause 152) and;
- disclosures by the Commissioner to the proposed Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity (subclause 216(2)).

The ability of the Attorney-General to suffocate an investigation in an arbitrary manner as the operation of this section seems to allow is unjustified. The grounds allowing for a certificate to be issued are too broad.

The Police Federation of Australia in its submission to the Senate Committee that a reporting process apply when the Minister issues a section 149 certificate in order to ensure openness and accountability.

The Senate Committee has made recommendations that the bill be amended to ensure that transparency of the overall system is maintained by making information available to the Parliament on the operation of the proposed system. This can be achieved by requiring the Minister to report how many times clause 149 certificates have been issued and what restrictions they have made.

Where an investigation into corruption could bring embarrassment for the Government or the Attorney-General, this section allows for an unscrupulous Member to hush up an investigation. This provision, if abused, could create a situation which this entire act is intending to remove.

Also of concern is the potential for this act to operate in conjunction with the National Security Information (Civil and Criminal Proceedings) Act which would mean that any of this information that has been designated by the Attorney-General to come under the section 149 certificate may not even be seen or heard by a Magistrate in court proceedings.

I am perturbed with the decreased reporting and accountability measures that are constantly being reduced by the Government.

We have potentially invasive legislation being introduced. Legislation that does not have adequate safeguards and do not have sufficient reporting requirements to make the parliament aware of whether or not the legislation is being abused.

The Law Enforcement (AFP Professional Standards and Related Measures) Bill 2006, is a welcome change to the existing arrangements.

In May 2002, the Commissioner for the Australian Federal Police engaged Justice William Fisher AO, QC to undertake a review of AFP professional standards. This was in order to deal with recommendations by the Australian Law Reform Commission and from concerns within the AFP management that adversarial processes were causing significant delays in resolving complaints.

The previous system is reputed to have caused high levels of concern, within the workplace and was costly due to lengthy investigations that could be dealt with in a more efficient manner.

I commend the Commissioner for his efforts that has brought about this reform.

The current measures contained in the Complaints (Australian Federal Police) Act 1981 were stated as inefficient by Justice Fisher as “any system with a punitive regime as its central focus cannot adequately address the causes of poor performance or bring about significant behavioural improvement.”

The proposed measures which restructure the complaints system towards a more managerial
structure has also been welcomed by the Australian Federal Police.

What concerns the Democrats about the proposed bill however, is the fact that there seems to be no method for an aggrieved police officer to seek redress. Where a police officer has been dismissed or has had some form of punitive measures imposed on him or her, that police officer has no avenue to appeal on the merits of the case.

Naturally, under the ADJR Act it is possible to seek redress on the grounds of procedural fairness, or on a point of law, but where an officer is unhappy with any disciplinary actions taken against him or her, their only avenue of appeal is to ask the disciplining authority to reconsider their decision. This situation is completely unsatisfactory.

The Australian Federal Police Association stated during the inquiry:

We call for an external review panel, tribunal or court, as envisaged by the Fisher review and as is found in all other Australian police forces bar none.

As a measure of accountability and in order to maintain fair and equitable standards any officer who should receive disciplinary measures should have some form of appeals process available to them, especially in the instance of dismissal.

This is a serious oversight by the Government especially because it is not possible for officers to go to the Industrial relations Commission. It is important that an aggrieved police officer is given a chance to have his or her concerns heard.

It is not in the interests of the AFP to have dismissed employees walking away from the job bitter and resentful at the way they were dismissed.

I urge the Government to address this issue.

1 Submission 8, p2

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.30 am)—I will give a brief speech in reply on the Law Enforcement Integrity Commissioner Bill 2006 and cognate bills, and that will shorten anything I have to say in the committee stage. Firstly, I thank senators for their contributions to this debate. The government introduced this legislation in late March, and the bills were referred to the Senate Legal and Constitutional Legislation Committee for examination and report. The committee’s report was tabled on 11 May this year and the committee was called upon to report on these bills in what was a short time frame. The committee has done a very good job, and I want to express the government’s appreciation for the way the committee has handled this. There has been a range of submissions by interested parties, which have been taken into account by the committee. The government has accepted the vast majority of the Senate committee’s recommendations, and the necessary amendments in relation to these recommendations were dealt with in the other place.

I wish to make a few brief points about these bills. Firstly, the law enforcement reform package reflects the government’s desire to ensure that Australian government law enforcement is characterised by the highest standards of conduct. The package comprises two main components: the establishment of the Australian Commission for Law Enforcement Integrity—commonly known as ACLEI—headed by the integrity commissioner, and the reform of the complaints and professional standards regime of the Australian Federal Police. The government has taken this initiative in the absence of any major concerns about corruption in Australian government law enforcement. The integrity commissioner will operate independently but will be subject to oversight by the minister, a joint parliamentary committee and the Commonwealth Ombudsman. The Ombudsman will still have jurisdiction over the AFP and the ACC for matters other than corruption issues. Together, the integrity commissioner and the Ombudsman, with their com-
meric approaches, will provide the Australian public with a guarantee that the conduct of the key Australian law enforcement agencies are subject to comprehensive external review.

The Law Enforcement (AFP Professional Standards and Related Measures) Bill 2006 will modernise the complaints and professional standards regime for the Australian Federal Police. It largely gives effect to the government’s response to the recommendations made by the Hon. William Fisher in his review of the Australian Federal Police complaints and professional standards regime. The new system it creates is consistent with modern management practices and the organisational needs of the AFP, with an emphasis on dealing with issues quickly, constructively and, where possible, locally. The Australian Federal Police Association has been consulted on this legislation. As a result of these consultations, I am aware that the association is seeking a more extensive external independent review of serious conduct issues. The legislation as currently drafted maintains the current arrangements, including external review in the case of termination. Given that the current arrangements are maintained, I do not plan to hold up the bill. I will, however, give further consideration to the association’s submission in due course.

These bills have required a good deal of consultation, particularly with the states and territories. The 2004 election interrupted progress, of course. However, this legislation has always remained a priority for the Howard government. These bills are the culmination of a large amount of work in relation to what is a very important area of the law. These bills are, indeed, groundbreaking in providing for law enforcement integrity. I commend these bills to the Senate.

Question agreed to.

Bills read a second time.

In Committee

LAW ENFORCEMENT INTEGRITY COMMISSIONER BILL 2006

Bill—by leave—taken as a whole.

Senator LUDWIG (Queensland) (12.35 am)—Firstly, I want to make a couple of comments in regard to what the minister has said. Of course, Labor has indicated its support for the structure of the Law Enforcement Integrity Commissioner Bill 2006 and the cognate bills. They were some 10 years in fruition and are a significant step forward for the oversight of our law enforcement agencies. It is worth saying that we are at a point in this evening’s program where, because of time, we have to say what we want to say in a rather shorthand way. In doing so, as Senator Stott Despoja said, I think it does not detract from the importance of the legislation that is before us.

Having recognised the Senate Legal and Constitutional Legislation Committee’s work and the number of recommendations that came from that, the government has picked up a range of those recommendations, and those recommendations do improve the bill. But the bill is still in need of further improvement, and the amendments that I will be moving this morning go to ensuring that the bill does in fact provide the level of oversight that is required.

I will speak to amendments (1) and (2) on sheet 4975, though they need to be moved separately. Under the model proposed by the coalition government, the integrity commissioner is only authorised to conduct an own-motion investigation into an issue relating to corruption in the AFP, the ACC or another agency that has a law enforcement function and is prescribed by the regulations as a law enforcement agency. This means that, unless the Law Enforcement Integrity Commissioner Bill 2006 is substantially amended this morning, the minister will be able to add
and subtract agencies, other than the Australian Federal Police or the Australian Crime Commission, on a whim by mere regulation. That means that with the stroke of the minister’s pen agencies with law enforcement style powers, like ASIC, Customs and the Australian Taxation Office, could be placed beyond the jurisdictional reach of the commissioner. It is incredible that, when you look at the power that is provided here, the justice minister, Senator Ellison, seems set to ignore the recommendations against such a power which were proposed by the Senate committee dominated by government backbenchers. But, as parliament prepares to vote, the regulations are not public and the minister will not, as I understand it, commit to including other law enforcement agencies directly into the legislation. It is not for want of trying.

The proposal is not good public governance. In fact, it harks back to the 1970s when I worked under a government and I can recall an honest cop, Mr Ray Whitrod, being sacked for being just that. The types of structures we have today go to oversight that and ensure that there is good governance. I think this harks back in part and represents a bad example. But the discretionary power cannot possibly be in the public interest. It should not be there. The minister should abandon it before the bill is made law.

Amendment (1) proposes to remove the ability of the minister to change the jurisdiction of the Law Enforcement Integrity Commission by regulation and, coupled with amendment (2), proposes to add the Customs Service, AUSTRAC and DIMA. I think the reasons are clear—and I will go into them briefly—in that, even if we take the Customs Service as an example, they now have substantial power under their legislation, they now carry arms, they now have significant intelligence-gathering mechanisms, they have intelligence databases and they have developed into a highly disciplined, worthwhile and accomplished service. That is not to say that there is any suspicion of corruption there—in fact, far from it: I do not think there has been much reported, although there have occasionally been issues such as that raised. It would seem logical to me to include them within the ambit of this particular bill. It is similar for AUSTRAC and DIMA, when you look at the range of powers that they have.

It is disappointing to find that at this hour we still have matters that could and should be addressed, and I think the practical reality is that they will not be addressed. The minister, I understand it, has given some undertakings to look at it. I think it needs more than that, quite frankly. I think the minister did have the ability to change it and include the agencies in there and not use a regulatory mechanism within the legislation. I think it detracts from it. It is a shame that we are in that position.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.41 am)—We believe that providing for this by regulation still provides transparency. It is a public determination disallowable by the parliament and, of course, it gives the ability to expand the operation of this act without having to go through cumbersome amendment to the legislation. The reason we have named this bill using the term ‘law enforcement integrity’ is so as not to name a particular agency. I am on the record as saying that I well envisage that in the future this could be expanded but, at this stage, to particularly name certain agencies is premature, we believe. We want to see how it operates for the time being, but I could well envisage that in the future it will be expanded to encompass other Commonwealth agencies which have a law enforcement function. But at this stage we are opposed to the amendment.
The TEMPORARY CHAIRMAN (Senator Chapman)—Senator Ludwig, how do you intend to handle your group of amendments?

Senator LUDWIG (Queensland) (12.42 am)—It is probably best that I move them separately. I do not intend to divide on them, as long as our position is quite clear from my earlier statement.

Senator STOTT DESPOJA (South Australia) (12.43 am)—For the record, given there will not be a division, the Australian Democrats will be supporting the Labor amendments. In my incorporated speech on the second reading and also in the Senate committee report, I indicated some of our views on these issues, including the expansion of powers. I will not elaborate further on that. I also indicate in advance that I will not be dividing on the Democrat amendment either.

The TEMPORARY CHAIRMAN—The question is that clause 5 stand as printed.

Question agreed to.

Senator LUDWIG (Queensland) (12.44 am)—I spoke to amendments (1) and (2) together, as they go to the same issue. I now move opposition amendment (1) on sheet 4975:

Clause 5, page 8 (lines 19 to 22), omit paragraph (d) of the definition of law enforcement agency.

Question negatived.

Senator LUDWIG (Queensland) (12.44 am)—I now move opposition amendment (2) on sheet 4975:

(2) Clause 5, page 8 (after line 18), after paragraph (c) of the definition of law enforcement agency, insert:

(c) the Australian Customs Service; or

(cc) the Australian Transactions Reports and Analysis Centre (AUSTRAC); or

Question negatived.

Senator LUDWIG (Queensland) (12.44 am)—We can move to amendment (8). You might note that there are a number of other amendments on the sheet. What occurred was that we had diligently gone through and developed amendments for the range of recommendations arising out of the Senate Legal and Constitutional Legislation Committee. However, having lately discovered that the government had chosen to pick a range of those up, we will not need to move them in that sense. I move opposition amendment (8) on sheet 4975:

(8) Clause 93, page 103 (after line 30), at the end of the clause, add:

False or misleading statements

(6) A person commits an offence if the person makes an oral or written statement to a hearing that the person knows to be false or misleading in a material particular.

Penalty: Imprisonment for 2 years.

This amendment deals with false or misleading statements to the law enforcement commission. This is one of those ones where I think again the government has chosen to adopt a penalty regime for offences against ACLEI that is substantially different from the regime employed under the Australian Crime Commission. Both bodies are in effect standing royal commissions, and there is a general principle that like should be treated as like. There is a proposed provision that, in the not unforeseeable event that an issue falls under the jurisdiction of both bodies because it involves both organised crime and the corrupting of an officer, a person who provides false or misleading statements to the ACC should receive a maximum penalty of five years compared with a maximum of only one year for an equivalent offence against the
ACLEI under section 137.1 of the Criminal Code Act 1995. Not only is it inconsistent with every offence listed in the proposed bill; it is also inconsistent with the broader application of the law when you consider the Australian Crime Commission.

The best Labor can do this morning with what you can only really describe as the hopeless situation which the government has foisted upon us is to move for the creation of a new offence which would at the very least make the ACLEI act consistent. We could suggest to the government that they have a good hard look at the proposal, consider the absurd situation I have just outlined in relation to the differential treatment that could occur between the Australian Crime Commission and ACLEI and take a considered examination themselves in their review of penalties—I understand that the penalties review is still open—to see whether it can be corrected through that process or whether we need a consequential amendment when the government comes back here with legislation amending this legislation. I certainly do not want to still be arguing this point three years on at the review.

It seems logical to me, unless the government can argue otherwise. Certainly in another place the ACC have argued themselves that the penalties under their provisions need review. I think the Attorney-General’s Department has also argued that in submissions to another committee that I am on in respect of the problem the Australian Crime Commission have in this area. This is one of those areas that does need a further look. I know that the government will not pick up the amendment but I am sure they will certainly have a hard look at it.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.48 am)—There is provision in the criminal legislation already for this and we do not see a need for it.

The TEMPORARY CHAIRMAN (Senator Chapman)—Amendments (3) to (7) having not been moved by Senator Ludwig, the question before the chair is that amendment (8) proposed by Senator Ludwig be agreed to.

Question negatived.

Senator LUDWIG (Queensland) (12.48 am)—by leave—I move opposition amendments (10) and (11):
(10) Heading to Part 14, page 208 (lines 3 and 4), omit “Australian Commission for Law Enforcement Integrity”, substitute “Australian Crime Commission”.
(11) Clause 212, page 208 (lines 8 to 10), omit all words after “means”, substitute “the Parliamentary Joint Committee on the Australian Crime Commission established under Part III of the Australian Crime Commission Act 2002.”.

We also oppose clauses 213 and 214 in the following terms:
(12) Clauses 213 and 214, page 208 (line 12) to page 209 (line 22), TO BE OPPOSED.

These three amendments go to moving the parliamentary oversight of the commission to the Parliamentary Joint Committee on the Australian Crime Commission. It is a matter that I have raised. It was a matter that was in the Senate Legal and Constitutional Legislation Committee report. It would seem logical to have one parliamentary committee. On the one hand we have the government arguing this week to reduce the number of committees and on the other hand we have the government now seeking to expand and add an extra committee. I find myself on the side of saying let’s not waste public money on a committee that may only effectively have one agency to oversight—that is, the commission—and it may not be used very much at all.
It would be more logical to wrap it up with a parliamentary joint committee to deal with the wide range of work. The experience that it would gain from that would be significantly improved, I think, for the members. The ASIO committee is one such joint committee that has oversight of a range of bodies, and the members manage quite well to keep themselves abreast and provide cogent reports to this parliament. It would seem in this instance that it would be sensible to follow a similar path. I know that the government’s view is the opposite, that they prefer a single committee and an additional committee. I can only think perhaps they want the chair as an addition. I would be disappointed if that was their only view and only argument, but I have not been able to discern a better argument.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.50 am)—The government opposes these three amendments. Basically we see the Parliament Joint Committee on the Australian Crime Commission as having a distinctly different function to the proposed committee which would oversee ACLEI. ACLEI is a body which would have purview over the Australian Federal Police and the Australian Crime Commission and in the future other Commonwealth law enforcement agencies, as I have foreshadowed.

The parliamentary joint committee was set up just for the Australian Crime Commission; it was not set up for this task. Therefore its role is quite different. It is overseeing the Australian Crime Commission. It would still deal with allegations of corruption brought against the Australian Crime Commission. But that is all in relation to the Australian Crime Commission. We believe that ACLEI could have expanded jurisdiction—and no doubt will—and should have its own committee of review to do it justice. For that reason we oppose the amendments.

Senator LUDWIG (Queensland) (12.52 am)—Having heard that, I reaffirm what I said earlier: there is no real reason why they would not simply have one committee—it is a more sensible approach.

The TEMPORARY CHAIRMAN—The question is that amendments (10) and (11) moved by Senator Ludwig be agreed to and that clauses 213 and 214 not stand as printed.

Question negatived.

The TEMPORARY CHAIRMAN (Senator Chapman)—We will now move to amendment (13).

Senator LUDWIG (Queensland) (12.52 am)—We can now move to sheet 4987, which is the professional standards bill. The remaining amendments, as I indicated earlier, fall within the range of work that had already been done but had been amended in the House. Unless there are other amendments from the Democrats.

The TEMPORARY CHAIRMAN—There are other amendments from Senator Stott Despoja to the bill that is currently before the chair. Senator Ludwig, are you pursuing amendment (13)?

Senator Ludwig—No.

Senator STOTT DESPOJA (South Australia) (12.53 am)—by leave—I move together Democrat amendments (1) and (2) to the Law Enforcement Integrity Commissioner Bill 2006:

(1) Clause 175, page 182 (after line 15), after subclause (2), insert:

(3) In making an appointment in accordance with subsections (1) and (2), the Governor-General is to have regard to the merit selection processes described in section 175A.

(2) Page 183 (after line 10), after clause 175, insert:
175A Procedures for merit selection of Integrity Commissioner

(1) The Minister must, within 9 months of the commencement of this section, determine a code of practice for selecting and appointing the Integrity Commissioner that must include the following general principles:

(a) merit, including but not limited to appropriate subject, research and management experience; and

(b) appointment on the recommendation of an independent selection panel established by the Minister; and

(c) probity; and

(d) openness and transparency, including where the Minister recommends the appointment of a person not nominated by the selection panel, the requirement for a statement to be tabled in both houses of Parliament setting out:

(i) the reason for not accepting the recommendation made in accordance with paragraph (b); and

(ii) the reasons for the Minister's decision.

(2) The Minister must cause to be tabled in each House of the Parliament a copy of the code of practice within 15 sitting days of that House after determining the code in accordance with subsection (1).

(3) The Minister must cause to be tabled in each House of the Parliament an amendment to the code of practice within 15 sitting days of that House after the amendment is made.

175B Audit of procedures

(1) The operation of section 175A must be audited by the Public Service Commissioner each financial year.

(2) The result of an audit conducted in accordance with this section is to be included in the annual report of the Public Service Commissioner.

(3) An audit conducted pursuant to subsection (1) must examine the code of practice as determined and any appointments made in accordance with the code of practice.

I do not think that these amendments come as any surprise to anyone in this chamber. It is a regular tactic of the Australian Democrats. These are the appointment on merit amendments. I think the Democrats have lost track of how many times we have actually moved these amendments, surprisingly without success. But we are going to keep doing it wherever there are positions being created where we believe it is important to stipulate in legislation that those appointments be made on merit. We see that that particular process could and should apply in relation to the Integrity Commissioner. I could expand on that. Mr Temporary Chairman, I am sure I could give you a history and a detailed background, but I think that, at this time of night, I might just move the amendments standing in my name and once again urge the Senate to support appointment on merit in this legislative form, as the Democrats have tried to enshrine on many occasions previously.

Senator LUDWIG (Queensland) (12.54 am)—What I have said about these before is that we agree with them in principle but we are not going to support them in the words proposed. Be that as it may, we do understand the principle that underpins this. Labor supports the principle but, in this instance, we are not going to support the amendments themselves. I understand that Senator Stott Despoja would be familiar with that remark.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.55 am)—Appointments are made on merit. There is an appropriate process for appointments via the government recommendation to the Governor-General. We believe that there is no need to change that. I am aware of the Democrats raising this with respect to
other pieces of legislation. It is not unfamiliar to the government. But, for the reasons we have stated previously, we are not attracted to these amendments and we oppose them.

Question negatived.

Bill agreed to.

LAW ENFORCEMENT INTEGRITY COMMISSIONER (CONSEQUENTIAL AMENDMENTS) BILL 2006

Bill—by leave—taken as a whole.

Bill agreed to.

LAW ENFORCEMENT (AFP PROFESSIONAL STANDARDS AND RELATED MEASURES) BILL 2006

Bill—by leave—taken as a whole.

Senator LUDWIG (Queensland) (12.57 am)—by leave—I move opposition amendments (2) and (3) on revised sheet 4987:

(2) Schedule 1, item 28, page 35 (after line 10), after section 40TV, insert:

40TV A  Review of category 1 or category 2 conduct report

(1) If the investigator is satisfied, on reasonable grounds, that the AFP appointee has engaged in category 1 or category 2 conduct, the Commissioner must provide a copy of the written report to the AFP appointee.

(2) The AFP appointee may request that the Commissioner conduct a review of the report or the recommendations.

(3) If the AFP appointee requests a review under subsection (2), the Commissioner must appoint a person (the reviewing officer) with appropriate qualifications or experience to conduct the review. The Commissioner must not appoint the investigator to conduct the review.

(4) The reviewing officer must provide to the Commissioner and the AFP appointee a report containing:

(a) the reviewing officer’s view as to whether the investigator’s findings are based on reasonable grounds; and

(b) the reviewing officer’s view as to whether the investigation was conducted appropriately.

(5) If the AFP appointee requests a review under subsection (2), the Commissioner must not take action under paragraph 40TV(b) until the reviewing officer has provided his or her report to the Commissioner.

(3) Schedule 1, item 28, page 35 (after line 10), after section 40TV, insert:

40TVB  Review of category 3 conduct

(1) If the investigator is satisfied, on reasonable grounds, that the AFP appointee has engaged in category 3 conduct, the Commissioner must provide a copy of the report to the AFP appointee.

(2) The AFP appointee may apply to the Administrative Appeals Tribunal for a review of the investigator’s findings.

(3) This section does not apply to an AFP appointee who has been the subject of completed termination action.

As I indicated earlier, in terms of what has been picked up out of the Senate Legal and Constitutional Legislation Committee report, this goes to recommendation 13. The government may argue that they have picked it up in part. It is sometimes worth going back to the actual recommendation itself, and the words in the report that underpin it, but I will only go to the recommendation now because of the early hour in which we are debating this. At 4.65 of the committee report the committee recommended that the lower level disciplinary matters, categories 1 and 2, should be subject to internal review while more serious matters, category 3, should be the subject of external review, for example through the Administrative Appeals Tribunal.
Amendment (2) sets up an internal review mechanism for categories 1 and 2 issues. It should be noted that affected AFP appointees have no guarantee that disciplinary action taken under this bill will not result in pecuniary loss. This matter was raised during the committee hearings. Labor thinks that it should in fact be spelt out. Amendment (3) ensures that an AFP appointee who has been through the category 3 conduct process, and who (a) has not been terminated, and therefore has no access to claims for unfair dismissal, and (b) does not have access to an external independent mechanism for review, can still access external review through the AAT.

You could have a situation that is not a termination but which is akin to termination. I am sure many here understand that constructive dismissal is not dismissal in truth, but a demotion of a type or size could effectively amount to a dismissal and therefore could not really go to the commission. Even if it does not amount to a constructive dismissal, it could be a penalty that provides a pecuniary loss of some substance to the officer or AFP appointee. It could mean a shift from shiftwork to day work, a shift from one location to another, recall from overseas deployment or a range of penalties. We will call them penalties, although they may in fact be disciplinary matters, as they can amount effectively to a penalty, which can range from minor to substantial. At that point there could be either an arbitrary or a considered application. In any event, there does not appear to be the ability for the officer to question it or have it reviewed externally, although certainly there may be an internal review mechanism and an independent review mechanism above that.

As in nearly every other work jurisdiction—save, of course, for those employees where there are less than 100 employees under the horrendous, shocking Work Choices legislation—people have the ability to go to the commission for dismissals. But, if there are issues that need to be settled, there are also dispute resolution procedures, usually contained within certified agreements or awards, providing access to an independent person for an assessment either at law or on the merits of the issue. We have suggested the AAT because it can deal with issues of both law and fact, not simply review of the law which goes to judicial review, and some of these matters are more likely to go to factual circumstances that the person might complain and feel aggrieved about. And of course the AAT is a less expensive path than running an ADJR case or seeking review in any higher court, because launching those types of actions brings with them significant costs.

This bill is missing an external review mechanism on merits for matters within category 3 that fall short of termination but are still serious and have serious consequences, including serious pecuniary consequences. In those instances there should be an external review mechanism available to allow the AFP appointee, at a lower or managerial level, aggrieved by a decision to have it looked at again. Quite frankly, I think that is consistent with the Fisher review.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.03 am)—The government opposes ALP amendments (2) and (3). They, of course, relate to review of category 1 and 2 items of behaviour, which are of a lesser magnitude or seriousness than category 3. I will deal with categories 1 and 2 first. I will briefly point out that under the system we are proposing the commissioner can no longer impose fines or demote AFP employees for misconduct matters in relation to these categories of conduct. This reflects Mr Fisher’s recommendation that these punitive measures are inappropriate for the modern AFP
and are unlikely to lead to any real change in poor behaviour. The Fisher review recommended internal review should be available for category 1 or category 2 matters. This will take the form of review under the commissioner’s orders. The AFP Act currently allows the commissioner to issue orders in relation to the good administration of the AFP. The government believes it is best left for the commissioner through his orders to provide for internal review of these lower level matters. I understand that the drafting for the commissioner’s orders has commenced and there is provision in that for internal review.

In relation to the second part of the argument, that is, ALP amendment (3), which deals with category 3 matters, they are more serious and would entail conduct that could disclose a breach of criminal law. In that regard we believe that if the employee has his or her employment terminated there will be the possibility of review by the Australian Industrial Relations Commission unless the commissioner issues a declaration under section 40K of the AFP Act that the employee was terminated for serious misconduct. In that case, section 40K declarations, which are only issued in about five per cent of all terminations, are subject to review of administrative action by the Federal Court. So category 3 allows for review by the Australian Industrial Relations Commission; that is the status quo. Where it is of a more serious nature—five per cent of all terminations are covered in that more serious bracket—then that is subject to review by the Federal Court. Ordinary principles of administrative law require that, where termination is being considered, the employee will be given notice of the case against him or her and have an adequate opportunity to rebut that case.

It is important to remember that Mr Fisher in his review determined that there should not be any other external review other than by the Industrial Relations Commission, which I have mentioned. So I think this is something which does not require amendment. I know the AFP Association was of a view that we should have a wider external review; and I mentioned that in my speech in reply. This is something we will keep under scrutiny, but we believe that what we have proposed here is appropriate. I might add that category 3 matters would normally be formally investigated by the professional standards section of the AFP, and that reflects the more serious nature of category 3 conduct. For those reasons we oppose ALP amendments (2) and (3).

Senator LUDWIG (Queensland) (1.07 am)—I will not take up too much time. I reject those submissions. I think, ultimately, there is the ability for this area to create adverse consequences for people who are then not found to be guilty of a category 3 breach. Access to the commission is fettered in the sense that it is not open for them to go there for a grievance that is short of a dismissal. I understand the position of the serious misconduct area as well; however, it starts to escalate significantly for employees when they have to find significant resources to follow their grievance through. It does not provide an easy mechanism, especially for those who might find themselves in the category 3 area.

Category 3 will not always directly be dismissals. They may be investigated, and the AFP appointee is in a position where they have not been terminated, they have got no access to claim for an unfair dismissal, they have got no access to claim a conciliation conference before the commission and they do not have access to an external independent mechanism for review. So, on that basis, what seems to be missing is the ability for the person who is aggrieved or is the subject of the investigation to say, ‘I need an external review mechanism that is quick, simple
and not particularly expensive in the process but fair and independent of the force.’ In that instance, I think this amendment is an improvement. I know it is not going to get up but I would ask you to keep it under serious consideration.

Question negatived.

Bill agreed to.

Bills reported without amendment; report adopted.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.11 am)—I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 1) 2006-2007
APPROPRIATION BILL (No. 1)
2006-2007

APPROPRIATION BILL (No. 2)
2006-2007

APPROPRIATION BILL (No. 5)
2005-2006

APPROPRIATION BILL (No. 6)
2005-2006

Second Reading

Debate resumed from 21 June, on motion by Senator Ellison:

That these bills be now read a second time.

Senator MURRAY (Western Australia) (1.12 am)—I seek leave to have my second reading debate speech incorporated in Hansard.

Leave granted.

The speech read as follows—

Appropriation Bill (No.1) 2006-07 appropriates over $53 billion for the ordinary annual services of the Government.

Major items of expenditure include Defence - $17 billion plus; Attorney General $3 billion plus; Health and Ageing $4 billion plus. The amounts allocated to each agency and the breakdown between departmental outputs and administered expenses are set out in Schedule 1.

Section 7 empowers the Finance Minister to issue money from the Consolidated Revenue Fund for departmental outputs for an agency but restricts the total.

Section 8 deals with administered items in the basic appropriation but subsection (1) limits the amount of money the Finance Minister can issue for administered items from the CRF to the lesser amount specified in Schedule 1.

Section 9 deals with the ‘reduction of appropriations on request’. Departmental appropriations do not lapse with the financial year, and they can be spent in the following year and remain available across all financial years. However amounts appropriated for departmental expenses can be subject to a reduction process. The Finance Minister can issue a determination following a request from the relevant Minister. Such a determination is a legislative instrument and is disallowable.

Section 11 allows the Finance Minister to increase, by determination, spending on departmental items to a maximum of $20million. Such determinations are legislative instruments, but are not disallowable under the Legislative Instruments Act 2003 see new subsection (3)

Section 12 allows the Finance Minister to increase the total amount appropriated in Schedule 1 by up to $175 million in urgent cases where the need for additional amount was unforeseen or not provided for due to ‘erroneous omission or understatement. A determination by the Finance Minister increasing the appropriation is a legislative instrument, but not disallowable under the Legislative Instruments Act 2003 new subsection 12(4)

Appropriation Bill (No.2) 2006-07 is to appropriate approximately $9.215 billion for the non-ordinary (or other) annual services of Government.

This bill provides funding for agencies to meet: expenses in relation to grants to the States under s96 of the Constitution and for payments to the NT and the ACT and local government authori-
ties; administered expenses for new outcomes; requirements for departmental equity injections, loans and previous years’ outputs; and requirements to create or acquire administered assets and to discharge administered liabilities.

The main provisions of the bill largely follow those of last year’s Appropriation. However, local government authorities are recognised in the bill for the first time.

Section 4 provide that Portfolio Budget Statements are considered as relevant extrinsic interpretational material under s15AB of the Acts Interpretation Act.

Section 7 deals with the basic appropriation of funds to be paid to the States, the NT, the ACT and local government authorities. Section 7(1) limits the amount of money the Finance Minister can issue from the CRF to the lesser amount specified in Schedule 2 and the amount that the Finance Minister includes in a determination. Such determinations are not legislative instruments and thus not disallowable by Parliament. Payments to the States, NT ACT and local government authorities may only be made for the purpose of contributing to the relevant agency outcome listed in Schedule 2.

Section 8 deals with the basic appropriation of funds for administered items. S8(1) limits the amount of money the Finance Minister can issue from CRF to the lesser of the amounts specified in Schedule 2 and the amount that the Finance Minister includes in a determination. Such determinations are not legislative instruments and thus not disallowable by Parliament. Amounts appropriated may only be made for the purpose of contributing to the relevant agency outcome listed in Schedule 2.

Section 11 provides that the responsible Minister may request the Finance Minister to make a written determination reducing the administered asset or liabilities item or other departmental item in the budget of an entity within their portfolio. The amount reduction is to be no greater than the amount requested, or where payments have already been made from the CRF, the difference between the amount appropriated to an item and the amount already paid. For entities within the Finance Minister’s portfolio, the reduction request must come from the Chief Executive of the relevant entity. Subsection 11(9) provides that a determination may be disallowed by either House of Parliament in accordance with the provisions of section 42 of the LI Act.

Section 12 – the Finance Minister is able to increase the amount appropriated for certain items, such as equity injections, listed in Schedule 2. The maximum additional amount is $20 million. Similar provisions are contained in previous appropriation Acts. Such determinations are legislative instruments but are not disallowable under the LIA.

Section 13 allows the Finance Minister to increase the total amount appropriated in Schedule 2 by up to $215 million in urgent cases where the need for additional amounts was unforeseen or not provided for due to an ‘errorneous omission or understatement’. This is a legislative instrument but is not disallowable under the LIA.

For specific payments to States, Territories and local government authorities, the relevant portfolio minister listed in column 3 of Schedule 1 is able to determine conditions under which payments can be made - see s15. Such determinations are not legislative instruments and thus not disallowable by Parliament.

Appropriation Bill (No.5) 2005–06. Basic appropriations are provided in Part 2 of the bill.Clauses 7 & 8 provide for appropriations for departmental items and administered items respectively. Specific amounts are outlined in Schedule 1 and include additional funding to the Department of Agriculture, Fisheries and Forestry to enable a payment of $500 million to the Murray Darling Basin Commission in 05-06; an additional $310.4 million to fund a coordinated package of measures to assist those adversely affected by Tropical Cyclone Larry. Grants totalling $265 million are made to medical research facilities including $50 million to the Walter & Eliza Hall Institute of Medical Research & the John Curtin School of Medical Research.

Clause 9 deals with a reduction of appropriations upon request and gives effect to the intention to lapse unspent departmental expenses.

For departmental appropriations they do not lapse at the end of the financial year and can be carried
forward unless the Finance Minister withdraws drawing rights.

Annual administered appropriations are determined by the Finance Minister and if the amount determined is less than the original appropriation, the difference lapses.

**Appropriation Bill (No. 6) 2005-06.** Part 2 provides for basic appropriations and Clauses 7 & 8 provides for appropriations for departmental items and administered items respectively. Specific amounts are outlined in Schedule 2.

The major item of additional funding is for Dept of Transport and Regional Services to enable a total payment of $1.759b for a range of highway projects.

**Appropriation (Parliamentary Departments) Bill (No. 1) 2006-07** appropriates $171.6 million for recurrent and capital expenditure of the three parliamentary departments for the 2006-07 financial year.

Section 7 provides that for departmental items, the Finance Minister may issue from CRF amounts that do not exceed that listed in the Schedule to the bill, and that such funds must be used for the departmental expenses of the relevant parliamentary dept.

Section 8 deals for administered expenses and the Finance Minister may issue from the lesser of two amounts either the amount specified in the item, or the amount the Minister determines to be the administered expenses incurred by the parliamentary dept during the current year. Administered expenses are funds administered by the parliamentary department on behalf of the Commonwealth for its purposes and include grants, subsidies and benefits. In many cases administered expenses fund the delivery of goods and services by third parties.

Section 11 provides that the responsible Presiding Officer may request the Finance Minister to make a written determination reducing the administered asset or liabilities item or other departmental item in the budget of an entity within their portfolio. The amount reduction is to be no greater than the amount requested, or where payments have already been made from the CRF, the difference between the amount appropriated to an item and the amount already paid. For entities within the Finance Minister’s portfolio, the reduction request must come from the Chief Executive of the relevant entity. Subsection 11(9) provides that a determination may be disallowed by either House of Parliament in accordance with the provisions of section 42 of the LI Act.

Section 13 - the responsible Presiding Officer will be able to increase the amount allocated to a departmental item by a max of $200 000 for each of the 3 departments.

Section 14 is similar to s13 but deals with increases in items due to unforeseen and urgent circumstances to a maximum of $300 000 for each chamber and a total of $1 million for the DPS.

I have two sets of better accountability amendments I am moving jointly with Labor. Appropriation Bill No 1 for instance is giving the Finance Minister the discretion to increase spending on departmental items by up to $20 million, and to increase the total amount appropriated by up to $175 million, with the added sting in the tail that the Minister’s determinations are not disallowable instruments.

The problem with a disallowance provision would be that the Minister would make determinations in a non-sitting period and the money would be committed and/or expended before the Senate had the opportunity to consider a disallowance motion, but without the disallowance provision he would probably have to spend it anyway.

The fact that a number of provisions in these Bills are non-disallowable legislative instruments is a concern, but the difficulty we have is that the Finance Minister does genuinely need flexibility speed and certainty in responding rapidly to some finance needs.

Up until 1 January 2005, the Department of Finance tabled monthly statements of issues from the Advance in Parliament. The commencement of the *Legislative Instruments Act 2003* altered this and the Advances are now posted on the Federal register of Legislative Instruments. They must be tabled within 6 days of registration and they are not disallowable.

As tempting as it is, making the individual determinations disallowable may try to go a bit far. AMFs are signed off by the Finance Minister’s
delegate (Division Manager, Financial Reporting and Cash Management Division) where they are urgent and either unforeseen or required because of erroneous omission. Often there is extreme time pressure involved in getting the money out - for example providing immediate relief after Cyclone Larry. So any perceived or actual delay or interruption in the capacity for agencies to contract or commit may cause problems in such time-pressured circumstances.

The solution is to have improved reporting of the detail of the AMFs and for them to be laid before the Senate as well as for improved descriptions on the current database. The current descriptions are limited. They are also somewhat ‘hidden’ on the Federal Register of Legislative Instruments. Something which requires better information on the purpose, objects and expected outcomes would be a start.

If this amendment is defeated there is nothing to stop DOFA introducing this as good practice anyway.

The second accountability amendment is on a theme strongly pursued by the Democrats and Labor during the life of the Howard Government, particularly over the last two parliaments.

Since the early 1980s, the Democrats have campaigned for more controls on the misuse of taxpayer funds for government political advertising. All governments have been guilty of using taxpayers’ money for party political purposes, but under this Coalition Government, the scale and cost has escalated breathtakingly.

A notable achievement of the Democrats’ campaign occurred back in 2003 when, with Labor support, we successfully moved a Senate order to try to enforce tougher controls on government advertising. This was a notable step toward trying to enhance Australian democracy, and go some way to restoring public confidence in our institutions of government.

In a revolting display of arrogant unaccountability the Howard Government just ignored the Senate. Disappointingly, the Coalition Government has contumaciously refused to comply with the Senate Order. It stated that the details of each advertising or public information project must be tabled in the Senate and must cover:

- the purpose and nature of the project;
- the intended recipients of the information to be communicated;
- who authorised the project;
- the manner in which it is to be carried out and by whom;
- whether the project is put out to contract;
- if so, whether such contract was let by tender;
- the estimated or contracted cost of the project;
- whether the project meets established guidelines; and
- if not, the extent of and reasons for the nonconformity.

I draw the Chamber’s attention to Appendix 1 of the Auditor-General’s Report No.12 which contains the following guidelines for government advertising.

The underlying principles governing the use of public funds for government information programs allows the public to have equal rights to access of information in relation to government policy or programs which effect their rights or entitlements.

It also allows governments to legitimately use public funds for information programs or education campaigns to explain government policies and programs to inform the public of their obligations, rights and entitlements.

The guidelines are outlined as follows:

Firstly that material should be relevant to government responsibilities. In developing material to be communicated to the public it is suggested:

- That the subject matter should be directly related to the Government’s responsibilities;
- That an information strategy should be considered as a routine and integral part of policy development and program planning; and
- That no campaign should be contemplated without an identified information...
need by identified recipients based on appropriate market research. Secondly, that material should be presented in an objective and fair manner. The guidelines are suggested to assist in determining whether the material communicated is presented in an explanatory, fair and objective manner. It states that:

- Information campaigns should be directed at the provision of objective, factual and explanatory information. Information should be presented in an unbiased and equitable manner;
- Information should be based on accurate, verifiable facts, carefully and precisely expressed in conformity with those facts;
- The recipient of the information should always be able to distinguish clearly and easily between facts on the one hand, and comment, opinion and analysis on the other and
- When making a comparison, the material should not mislead the recipient about the situation with which the comparison is made and it should state explicitly the basis for the comparison.

Thirdly, that material should not be liable to misrepresentation as party-political. The guidelines under this heading recommend that:

- Information campaigns should not intentionally promote, or be perceived as promoting, party-political interests;
- Material should be presented in unbiased and objective language, and in a manner free from partisan promotion of government policy and political argument;
- Material should not directly attack or scorn the views, policies or actions of others such as the policies and opinions of opposition parties or groups; and that
- Information should avoid party-political slogans or images.

And lastly, it sets out guidelines to ensure that the distribution of sensitive material should be controlled.

- Care should be taken to ensure that Government advertising material is not used or reproduced by members of political parties in support of party-political activities without appropriate approval;
- All advertising material and the manner of presentation should comply with relevant law, including broadcasting, media and electoral law;
- Material should be produced and distributed in an economic and relevant manner, with due regard to accountability;
- No information campaign should be undertaken without a justifiable cost/benefit analysis. The cost of the chosen scale and methods of communicating information must be justifiable in terms of achieving the identified objective(s) for the least practicable expense; and that
- Existing purchasing/procurement policies and procedures for the tendering and commissioning of services and the employment of consultants should be followed.

We put up this amendment with Labor not as a futile gesture but as a firm statement of the sort of standards and accountability an honest Government would not hesitate to abide by. That this one does not speaks volumes.

Senator MOORE (Queensland) (1.12 am)—I seek leave to incorporate speeches from Senators Crossin, Campbell, Hutchins, Marshall and Forshaw.

Leave granted.

Senator CROSSIN (Northern Territory) (1.12 am)—The incorporated speech read as follows—

I rise to speak on the various Appropriation bills under debate here today.

In so doing I have to say from the outset that as a Territorian I was, and remain most disappointed by this budget.
Can I say at the outset that I think my colleague David Tollner picked up the wrong speech in his way out of the office to speak on these Bills. He spent most of his time rambling about the Land Rights Act rather than boasting about the benefits of this budget to his electorate further evidence that he was not even aware of what he is talking about most of the time.

But he did suggest that the NT budget allocation tends to be higher per capita than elsewhere. What he fails to fully explain is that costs in the NT are usually far higher than most other areas and that this higher allocation per capita is just a part of fiscal equalisation.

Neither does he make any mention of the fact that the NT is one of the major production areas for so many of our valuable resources – minerals, tourism and pastoral. We contribute hugely to the National Income and to the tax take of this self-aggrandising government.

I do want to concentrate on the Federal budget and how it fails Territorians.

Firstly of course it fails Territorians in the tax cuts which are given in the one hand but gone almost before they reach any hand or pocket. They are gone with the higher interest rates we are now paying. They are gone with the higher petrol prices we are now paying. They are gone with higher private medical insurance premiums allowed to be introduced by this government.

In the NT we have what must be among the highest petrol prices in the nation. Even in Darwin we are paying $1.42 a litre for unleaded petrol. In Nhulunbuy it is around $1.50 a litre. In Tennant Creek around $1.65 a litre. In the most remote places it is closer to $2.00 a litre.

This government refuses to do anything to reduce this very high cost.

With this high cost of fuel, freight prices have also gone up, reflected in the prices in our stores for most of our basic necessities.

Let me perhaps here use some figures from my colleague in the other place, where he quoted some prices taken from the NT Government market basket survey in April to June 2005 (before petrol prices hit their present levels). Using Darwin prices as the base their survey found that basket of goods was 52% more expensive in the Barkly Region. It averaged 32% more expensive across the more remote communities.

That is a fairly heavy impost and one that this budget does absolutely nothing to alleviate. In fact as you will see later, for those needing child care this budget makes those costs even higher.

So the meagre tax cuts received by most people have more than gone – they get us nothing. Not even the milk shake and sandwich of a past tax cut. They have disappeared into the ether without even touching our pockets. Territorians don’t even get to see them.

Then I could talk about the lost opportunity once again to invest in our future – this budget gives nothing extra to Higher Education or Vocational Training.

Even the much vaunted Australian Technical College promised to Darwin is, like many others lagging behind and is not yet even off the ground. Here was an example of wasting funds in pursuit of an ideology when so many existing TAFE and other training providers could have been up and running with plenty of trainees if the ATC funds had gone to them.

The decision to fund ATC’s was one made entirely as a whim, ideologically based, to heavily involve business in the area of education. It is proving to be a totally ineffective and poor decision on the way to do this.

Indeed, even worse, what I consider to have been an important, if not financially large, initiative has been cut completely – the Women in Training program has gone in this budget.

This budget has cut $52 million in incentives to support women apprentices in training in traditional trades and rural areas. Some $38.5 million of this has gone from the women in trades program.

Then we might look at road funding in this budget for the Territory. Despite the huge budget surplus, this budget does little for our roads – certainly nothing new or major. The Victoria Highway, under Auslink, will get a $30 million upgrade for flood mitigation. But this project has been on the agenda for some time. The recent cyclone and consequent flooding made this project even more urgent.
Some other roads will get funding under Roads to Recovery, but with our enormous mileage of roads to maintain, these funds are never really enough and local councils are always playing catch up.

These councils will be happy to receive these funds and will already have projects in mind to use and benefit from these funds. However we also still have some 9000 kilometres of roads on unincorporated land which get none of this funding.

Our beef producers turn out great numbers and great value in cattle, but the beef roads get nothing. Many producers and transporters are complaining about the poor state of those roads and the damage done to both cattle and trucks. Damage which imposes even higher costs on them by poor roads on top now of fuel prices.

So despite the value of NT product to the national economy, whether tourism, minerals, cattle or horticulture, this budget does very little to improve transport, communications or infrastructure.

So how the Member for Solomon can think this is a generous budget – one of great largesse – for the Northern Territory, is beyond me.

It does nothing for the Territory taxpayers, little for roads, little or nothing for any other communications or infrastructure, nothing for higher education or training.

Of course it must be said equally that this budget does nothing for any average Australian worker. The Government’s extreme Industrial Relations laws take away any job security, take away most employment conditions, then the budget gives precious little in tax cuts which are already gone in higher interest, higher fuel prices and so on. God help the workers, for John Howard, Kevin Andrews and Peter Costello will not.

Neither unfortunately does the Government do anything to help child care. Nothing in this budget will do anything for child care in the Northern Territory.

In fact the opposite will be true in many cases since changes to funding arrangements of community child care centres will in fact mean they have to raise their charges or go out of business.

Many people in these regional and remote areas are low and middle income earners – the battlers – and they will simply not be able to meet the increased cost and will be forced to drop out of the workforce.

This will of course have flow on effects not just for individuals and families but for employment in regional and remote areas – it will become harder to recruit and retain staff in these areas.

But then this government shows no caring for regional and remote Australia and never has done.

And finally let me talk about the sad state of affairs with the budget for Indigenous people, who have been much in the news of late. The government has done a good deal of beating of the breast, and talking tough, but this budget does nothing for Indigenous Australians.

What the issue of Indigenous affairs recently HAS done is enable the government to have another go at Indigenous Australians. It has sadly enabled them to make a lot of noise about Indigenous problems whilst covering up the facts that this budget has gone down a bit like a lead balloon, and workers are starting to feel the bite of the so called Workchoices legislation.

Estimates has shown that this government policy of mainstreaming, whole of government and COAG trials simply has not worked, certainly not in the Northern Territory.

The COAG trial at Wadeye has achieved little or nothing. Many Indigenous projects show that Federal mainstream government departments spent as much or more on their administration fees as ever got on the ground in terms of projects to improve the living standards of Indigenous people.

Funds allocated nationally for domestic and family violence programs have been largely unspent.

Minister Brough’s Department has spent nothing in Wadeye since 2004 from its $37 million Family Violence Partnerships Program budget. Department officers admitted in estimates that nationwide only $5.6 million or a sixth of the money has been spent in the first two years of the program. The program was promised as an outcome of the Prime Minister’s roundtable on family violence with Indigenous leaders in 2003.
The Minister recently announced $30 million dollars for Alice Springs town camps, but when we get down to the nitty gritty we find that the government intends to take $10 million of this from the ABA. This latter is money set aside, under the Land Rights Act, into that account from mining royalty equivalents, for the use and benefit of Aboriginal people, and to be administered by them. So the federal Government just steps in and grabs a few million.

A further $10 million is the NTG contribution from their housing money, and the $10 million Federal money comes from a program announced back in 2004. So this budget gives no new money here.

This government has done what it is good at. It has made a lot of noise, it has talked tough about imposing law and order. Ministers have indicated support for taking "customary" law out of court decisions. They have indicated they think taking culture out of school curricula is worth considering. They are looking at the viability of homelands.

What they have not done is to come to grips with actually talking to Indigenous people, listening to them, and actually treating the causes rather than the effects.

The facts are too well known to bear repeating here, but if you were living 17 or 18 to a house, you might just get cranky. You might get stressed out, especially if you had no job or only a few hours a week on CDEP. There might be stresses leading to family violence.

Don't get me wrong – it is probably good that the Minister for Indigenous Affairs has been out and about and raised these issues, but we don't need just talk about tougher law and order. We don’t need more summit meetings to talk about the problems (and how many Indigenous people will be involved here? I hear no Indigenous representatives are invited to the summit).

We need on the ground action, and this budget just does not achieve that.

This budget contains little for Indigenous Australians. It lacks any overall coherent approach, and like everything under "mainstreaming" and "whole of government" is a piecemeal approach with no real strategy for addressing the real problems.

So this budget is, for the Northern Territory, a complete non event. The NT gets very little from it. Tax payers get nothing; Indigenous people get nothing; higher education and training get nothing.

Senator GEORGE CAMPBELL (New South Wales) (1.12 am)—The incorporated speech read as follows—

The 2006-7 Budget is a missed chance and a wasted opportunity. This budget signifies how out of touch this Government is. This Government has become so distracted by ideological crusades that they have taken their eyes off the ball. They have chosen to ignore the issues that are holding the economy back. It is ignoring the issues that matter to mums and dads, the issues that press home every single day.

Howard and his Government have become lost and out of touch. They have lost the will for good government, they now simply seek power.

In the Sunday Age on the 7th May, ANZ Chief Economist Saul Eslake was scathing when he said:

"The resources boom has dropped $100 billion into the Government’s lap that they hadn’t expected in 2002 and they’ve spent all of it and a bit more, and I honestly and genuinely struggle to find anything that has been done with it other than win elections."

It is obvious that this Government is not looking at the national interest. They are only interested in the political interest.

John Howard used to talk about 'Howard’s Battlers’, and Menzies used to talk about ‘the forgotten people’. But Howard’s battlers are the new forgotten people.

This Government is forgetting working families. Look at the facts: every year another big tax cut to the well off. We see Macquarie Bank chairman Allan Moss picking up $6,000 a week out of this budget, and what do middle income families get? A pathetic token. A mere $9.81 a week.

Does this cover bracket creep? No it does not. This $9.81 also fails to address high effective marginal tax rates, fails to cover rising petrol
prices, fails to cover rising childcare fees, fails to cover rising health costs and fails to cover the impact of interest rate rises.

This budget is yet another failure from an old and failing government. The greatest failure of all is of course WorkChoices.

Let’s take a look at these Australian Workplace Agreements that the Government is hell bent on promoting. Every single AWA that the Office of the Employment Advocate has looked at cuts conditions from the relevant Award. Every single AWA has contained a cut to something.

The Prime Minister defends the system saying that workers have received pay rises. What pay rise did the Spotlight workers receive? Two measly cents an hour! Two cent pay rise or no, these workers will be $90 a week worse off. And what do we hear from the Liberal party room in response? I will quote the Member for Blair, Mr Cameron Thompson, who said that they are “sick of hearing this sad-sack sorry stuff”!

Instead of creating policy, this Government is creating poverty. Instead of delivering productivity they are delivering pay cuts.

Laurie Oakes belled the cat the other day when he wrote about the tactics of confusion. He said that John Howard always seeks to avoid the central IR issue, that is, that many people are going to be worse off. Laurie Oakes also reminded us of a quote from 1996;

“I have no intention of permitting the critical debate about industrial relations reform to be submerged again by a welter of false accusations that wages will be lower under a Coalition Government. That is why our policy for the coming election contains an explicit guarantee. Under no circumstances will a Howard Government create a wages system which causes the wages of Australian workers to be cut. Under a Howard Government you cannot be worse off but you can be better off. I give you this rock solid guarantee. Our policy will not cut your take-home pay.”

John Howard, 28th Convention of the Young Liberal Movement, January 8 1996

A rock solid guarantee. We all know about the Prime Minister’s “rock solid guarantee”, his “never ever” and of course, his “core and non-core promises”.

The Australian people are waking up to a simple fact. The Prime Minister and his Government have to go. They are a Government on the ropes, constantly stumbling and bumbling from one crisis to the next, mishandling issues and missing the point.

Of course they throw up diversions where they can, but things keep blowing up in their faces; WorkChoices, Iraq, AWB, migration, civil unions, childcare and electoral reform to name a few.

The Government is failing. They are tired, they keep dropping the ball. This Government is full of weary minds and weary bodies, barely dragging themselves from one disaster to another. And it is not only the Opposition saying it. To quote the Bulletin:

“There are no ideas…” says one Liberal front-bencher. “We are just drifting along… It’s like he [Howard] doesn’t know why he wants to be PM anymore and he’s taking pot shots – nuclear power and gay marriage one minute, the ABC again the next.”

The Government’s latest trick is mauling the committees of the Senate. Earlier in the week they voted to minimise democracy for the Australian people, and now they want to ensure that the processes within government are as undemocratic as possible.

This is a Government that knows it is on the ropes. They have overstepped the mark on IR reform so now they are pulling every other stunt they can to try to avoid scrutiny and hide its failings. They are hoping nobody notices how drunk on power they have become. But these failings cannot be hidden.

Look at the foreign Debt explosion. Foreign debt keeps stacking up, and the net foreign debt is growing faster than ever before. Net foreign debt stands at more than 50% of GDP. 493 billion dollars! It is pressing down on the economy.

When John Howard launched the Debt Truck in 1995 he said;

“If it weren’t for the level of foreign debt, interest rates in this country would be much lower and every Australian today who owes money on his or her home is paying a higher interest rate than would otherwise be the case because of the size of our foreign debt.”
He also said:

“I can promise you that we will follow policies which will, over a period of time, bring down the foreign debt.”

He has had ten long years. I think it has been long enough. John Howard broke another promise to the country - our foreign debt is enormous and growing, but it does not stop there. Another massive problem is our record household debt. Latest figures put the household debt ratio at 166.4%. This means that debt is more than 1½ times our incomes. Again, this is a record level and it keeps piling up. Household savings have been negative since 2002. We are spending more than we earn.

Around kitchen tables in houses all over the country, the bills are piling up and the bills are followed around by more debt. This rams home the sensitivity to interest rate movements.

Australia’s attention must be drawn to the failure of the Howard-Costello Government to do anything about our ballooning foreign debt. Every Australian should know that this failure is what keeps pushing their interest rates up.

And how low are our interest rates, really? They are not low at all, they are comparatively high. Our interest rates are among the highest in the developed world. Check the figures! We have got higher interest rates than Canada, United States, Japan, France, Germany, Italy and the United Kingdom and this has been the case since August 2001. This is true whether you compare nominal or real rates. Why is this? Wasn’t John Howard going to keep interest rates at record lows?

On the 29th August 2004, the Prime Minister asked Australian families:

“Who do you trust to keep interest rates low?”

During the last election campaign, the Liberal Party claimed they would:

“Keep interest rates at record lows.”

Interest rates have risen twice since then.

Since August 2004, the average mortgage costs Australian home owners $879 more per year.

The Government has now been in power for ten long years, and since they gained control of the Senate they have been drunk on power. They have lost touch with ordinary Australians. They have been blessed with rivers of gold and they have chosen to squander their opportunity to invest in the future. Instead they invest in their own political futures. They were given the trust of the people and in return they took away their job security. Maybe the Australian people might want to return the favour.

The rot has well and truly set in. It is time to make a change.

Senator HUTCHINS (New South Wales)

(1.12 am)—The incorporated speech read as follows—

Families in my duty electorates of Lindsay and Greenway in western Sydney, Dobell and Robertson on the Central Coast, and Gwydir and Calare in west and north western New South Wales have a right to be disappointed by this Budget.

This Budget represents nothing new from a tired, old Government, whose arrogance after 10 years is already starting to poke through. It’s become a familiar tale on Budget nights under the Howard-Costello Government: Australians are all waiting for a promise to invest in the country’s future, but it never comes. This year was no different, but the disappointment was made all the more bitter by the fact this Government had a once-in-a-generation opportunity to capitalise on the revenue from the resources boom and put in place a future-thinking programme of investment, but we got nothing of the sort.

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Under this regime we have seen 300,000 Australians turned away from TAFE courses. Not because they didn’t have the marks or the qualifications, but because there weren’t the places to take
them. And running concurrent to this shortage of educational places has been a skills shortage that continues to worsen. This month the vacancies for skilled jobs rose again by 1.2 per cent. We can’t get the people to fill these places because they aren’t getting the opportunity. And what is this Government’s response? Instead of using some of the $10 billion to make sure young Australians aren’t being turned away for trades courses, they are relying on imported workers to fill the gap. John Howard said in question time this week he thought it ‘elementary’ to rely on foreign workers to solve the skills crisis his Government has sent us headlong. Well I say it is elementary to train our young people to fill those places before we turn to overseas labour.

Of course, this is part of John Howard’s grand ideological plan for the country with his WorkChoices legislation. It is all aimed at slashing the wages of workers, whether it is employers drawing up Spotlight-style AWAs or it is business using labourers from overseas to undercut the wages of domestic workers. The only choices under this regime are accept lowered wages, no penalty rates and no rights, or be unemployed. These are the stark choices Australians are being presented with.

Even Gosford Liberal Councillor Malcolm Brooks knows this. In his newsletter, The Way Ahead Cr Brooks lambasted the Coalition for imposing its ridiculous IR laws, admitting it is deeply flawed and will make it harder for Australians to get a fair go in the workplace. Considering Cr Brooks’ newsletter purports to represent mainstream Liberal Party opinion on the Central Coast, I would assume Ken Ticehurst and Jim Lloyd share this point of view but haven’t had the ticker to come forward and stand up for their electorates.

At the centre-piece of this Budget was what Peter Costello referred to as ‘tax reform’, but in reality was a $10 tax cut that was eaten up by the triple whammy of interest rate rises, skyrocketing petrol prices and shrinking wages under this Government’s draconian IR laws.

According to the last ABS census, the vast majority of income earners in my duty electorates earn weekly incomes of less than $800 and will receive a tax cut of $10. Labor has lobbied hard for a tax break for middle Australia. Those families on average weekly wages are bearing this country on their shoulders: they are the workers who are putting in overtime and working on weekends and public holidays, and they are the workers who are helping to strengthen the economy. But middle Australia also cops the brunt of the spikes in petrol prices, or when this Government’s poor management of the economy sees yet another rise in interest rates, or when an employer uses this Government’s IR laws to slash their wages for the sake of a profit.

They were short-changed in last year’s Budget with a miserly $6-a-week tax cut, and the extra $10 coming out of this year’s Budget is already spent as mums and dads at the kitchen table try and balance the books.

The Member for Dobell, Mr Ticehurst, in his contribution on the Appropriations Bill, regaled the tax cuts delivered by the Government. Mr Ticehurst said:

Improvements to tax and family payments in this budget will help middle income earners in Dobell, particularly those with families, and put more money back into their pockets. From 1 July 2006, all Australian taxpayers will benefit from new personal tax cuts worth $36.7 million.

In the seat of Dobell, 84% of income earners are earning less than $800 a week. 6.7% of people in the Dobell electorate will benefit from the cut to the tax rate of 42 cents in the dollar to 40 cents in the dollar, and only 2.55% will benefit from reducing the top tax rate from 47 to 45 cents in the dollar. Mr Ticehurst and his Government aren’t looking after middle Australians, they are delivering tax cuts to their mates in the top tax brackets.

In the past two years, the average income earners of my duty electorates have received $16 in tax cuts. But let’s look at the increases in the costs of goods and services they have been forced to bear in the past two years. In April 2004, the average cost of unleaded petrol in Sydney was 94.7 cents per litre. In April 2006, they paid an average of 132.5 cents per litre. If we look at filling up a family sedan, with a 75 litre fuel tank, in April 2004 this would have cost $71.03. In April this year, families were shelling out close to $100. That’s an extra $30 a week middle Australia is
trying to find just to be able to commute to work, do the shopping or take the kids to weekend sport.

Let’s have a look at the increase in mortgages. Since October 2004, when John Howard made his hollow promise to keep interest rates low, the repayments on an average mortgage of around $227,000 have leapt by $879 a year. That’s an extra $18 a week families are scraping together to pay off their mortgages.

With their $16 in tax cuts, families are also trying to cover childcare fees that are climbing ever higher. Since the ABS’s 2001 Child Care Survey, the median weekly cost of childcare has increased by 48%. The median weekly cost of childcare for parents using 40-44 hours a week was $85 in 2001. In 2005, this had jumped to $130. That’s an extra $45 a week parents are having to find and fund.

Low income earners are going to find it particularly tough, because Peter Costello is making them wait until 1 July 2007 for their tax cut. Australians receiving the Low Income Tax Offset, which is a significant proportion of the tax cut received by taxpayers on less than $40,000 a year- and there are five million such people- won’t see that cheque for another 12 months.

Working mothers number large among recipients of the LITO. Mums coming back into the workforce after the birth of a child would benefit from the LITO, but even with a $10 billion surplus and a self-congratulatory pats on its own back, the Government couldn’t see fit to give these low wage earners a break and ensure they had access to this important offset.

If the Government does the arithmetic here and still concludes that the tax cuts it handed down in the Budget are something for ordinary Australians to marvel at, they are more out-of-touch than I thought.

I would like to take a moment to comment on the Government’s inaction on childcare in this Budget.

Mrs Markus said in her speech on this bill in the other place:

I would particularly like to highlight the uncapped childcare places in family daycare and before and after school care. While it is a job that is never done, child care must change with the social nuances of the time. It is a job that requires active listening and responsiveness.

Indeed, I would agree with Mrs Markus that there needs to be a lot of listening done on the issue of childcare. The problem is, it isn’t happening. Just ask Jackie Kelly, Member for Lindsay. She has jumped up and down about child care, but her Government colleagues aren’t listening to her. They’re certainly not listening to the electorate.

However, I found Ms Kelly’s response to the Budget rather perplexing. In the local press in my duty electorate of Lindsay following the handing down of the Budget, Ms Kelly had very little to say about child care.

I would like to read from the Budget coverage in The Western Weekender of Friday, May 12, by Kieran Colreavy, titled, ‘Eleventh Heaven’, which featured, incidentally, a photo of Ms Kelly quite chummy with Treasurer Costello:

Federal Member for Lindsay, Jackie Kelly, welcomed the Budget, saying it would leave workers and families better off.

“A new comprehensive tax plan, more childcare places, superannuation assistance and further family assistance are just some of the highlights of the 2006-07 Budget,” said Ms Kelly.

In the Penrith Press of the same day, journalist Louise Attard’s story has Ms Kelly singing the praises of the Government’s childcare provisions in the Budget:

“(The childcare rebate) will rebate 30 per cent of out-of-pocket childcare expenses up to $4000 per child per annum,” she said.

Of the uncapping of family day-care and out-of-hours care places, Ms Kelly said in the Press:

“This means any new service set up by any eligible group will be funded,” Ms Kelly said.

“It is expected that this will generate an additional 25,000 places by 2009.”

I found this very curious, particularly considering Ms Kelly’s previous tirades against her own Government. Take, for example, her speech to the Fisher Price Childcare Awards in November last year, where she declared her Government’s 30 per cent childcare rebate as ‘clumsy’. She goes on, in the same speech, to say, ”The Government system
to support those people (parents) is designed by people who don’t use it.”

This speech was followed by months of Ms Kelly calling her Government’s childcare system a ‘shambles’ and proposing radical reform. She even threatened to cross the floor at one stage if the Government did not install a world-class childcare facility in this House.

Yet come the Budget announcement, and we had an unusually tame response from Ms Kelly despite the fact she got nothing of what she was asking for, and Australian mums and dads were rightly disappointed by the absolute poverty of solutions for childcare from the Howard Government. Ms Kelly was in ‘Eleventh Heaven’, according to the local papers.

But come Sunday, May 14, and Ms Kelly had transformed into a maddened avenger who, after having expressed no initial concern about any of the childcare provisions in the Budget, came out and said, quite rightly so, that the ALP was more serious on childcare than her own party. She told the Sun-Herald newspaper:

Childcare needs a bit of leadership. We have missed an opportunity with this Budget. Kim Beazley is obviously talking childcare as an attack, saying you could have done more.

It’s hard not to disagree with that when you have got $10 billion in your kitty.

So we had a very sudden turnaround, from disinterest to anger, in the space of two days.

Ms Kelly was very correct, however, in saying the ALP is taking the issue of childcare more seriously than the Coalition. The Howard Government has, in the words of Ms Kelly, missed an opportunity to use that massive surplus and invest it in our future, to take that surplus and invest it in supporting our working mothers and fathers by making a childcare system that is affordable and accessible.

We do have the better policy. Kim Beazley demonstrated this in his reply speech. We will build 260 childcare centres on primary school and community grounds so parents can avoid the mad morning double-drop-off. And those centres are going to be staffed by Australians who have studied the relevant TAFE courses for free, because Labor is going to abolish fees on those courses.

We recognise that it’s about more than just rebates and uncapping places; we understand that those centres have to be built and have to be staffed as well.

It didn’t take Ms Kelly long to change her mind yet again, but it was more the monstering she received from her own party colleagues than anything. I suspect, that provided the imperative. The next day, May 15, she was out with her tail between her legs, well and truly cowed by the heavies on her side. She’s gone from saying the system is a shambles, that the rebate is clumsy, and that the Government doesn’t know what it’s talking about when it designs childcare policy, to statements like this one she delivered on the AM programme:

I mean, I think our Government’s got a great record on childcare, and I think this lifting of the cap on family day care is another step in the right direction. It’s an instalment, if you like.

She lit a fire, but couldn’t handle the trouble she got herself into and backed away from it.

Her hypocrisy on this issue continued on into her speech on this bill in the other place on 1 June. She said that, “Importantly for me, we did something on childcare”, and goes on to say she is looking for the second instalment in the Government’s childcare policy. Well, firstly, this Government has done nothing for childcare but paid it lip-service, and secondly, guess what, Jackie Kelly, keep looking for that ‘second instalment’ because this Government has no further commitment to deliver a solution to the problems wracking childcare.

I find it entirely disingenuous that this Member can’t even bother to put out a decent response to her local press after the Budget, then comes out swinging madly and telling the truth for once on this issue- that Labor has got it right-, but capsizes at the first sign of pressure. What kind of representative is this? The people of Lindsay don’t deserve an MP who will toe the party line at the first sign of heat from the thugs on her own side.

This is a disappointing Budget, and the Government have shown again they aren’t serious about the future of this country.
Senator MARSHALL (Victoria) (1.12 am)—The incorporated speech read as follows—

I bring to the chambers attention the plight of Timor-Leste, the world’s newest nation. The Timorese are a remarkable people, having come so far through such adversity. The formation of Timor-Leste is a testament to the strength of the people, and we must remember that there will be continuing challenges for these people and their nation.

I have been astounded to read some of the commentary arising out of the conflict that occurred in Timor-Leste. We have seen media commentators arguing that we should consider ‘harsh truths’ - putting the views that Timor brought the Indonesian invasion on itself and that the 1999 violence was not caused by Indonesia. I have even heard it said that Timor was not ready for independence.

These disgraceful revisionists ignore the well documented death and destruction wreaked by Indonesian forces. They ignore the abject failure of Portugal to provide infrastructure and opportunity as a colonial power and they steadfastly refuse to acknowledge that Australian Government and media stood idle by whilst all this was going on. They conveniently gloss over facts such as whilst Timor-Leste was occupied by the Indonesians, Australian authorities had the temerity to use our Navy to stop medical supplies getting to Timor. Our Government even attempted to prosecute people trying to get Medicines to Timor on charges of drug smuggling!

Most glaringly they ignore that for the first time in centuries the Timorese people truly have the ability to take charge of their own affairs.

Yet like many countries the road to stable government and prosperity is one which will be marked by a steep learning curve, and this is where we should be helping to ensure Timorese can overcome the challenges, creating the opportunity that has so far been denied to them. We have to work with the Timorese on fundamentals such as education, healthcare and economic opportunity as the people of Timor-Leste are trying to reverse centuries of neglect rapidly. Their society is undergoing massive change, as many people try to deal with their past and the challenges that face them presently. There is a collective trauma, as evidenced by the findings of the Commission for Reception, Truth and Reconciliation, and made raw by the recent violence, these psychological scars will take generations to heal.

So we know that we must move forward and support Timorese in the long term, not as we did after 1999, when the Australian Government trumpeted INTERFET as a success, and then wound back its commitment to help build civil society and the economy in Timor-Leste over time. The Australian Government even pushed for the UN presence to be scaled back and withdrawn. This was not a sensible long term support of the Timorese people, and I am pleased to note that Australian communities took up the challenge by establishing Friendship relationships with communities in Timor-Leste, financing such fundamentals as local buildings, community education and skills exchange - working with Timorese with a long term view of stronger communities in Timor.

One of the largest contributions the Australian Government made however was the commitment to train the Defence Force of Timor-Leste, and had we done this well we may have avoided the conflict that arose in May of this year.

Unfortunately as we look back it seems that we did little training of the Defence Force of Timor-Leste. Rather than turn them into a coherent, disciplined defence force this move became an immense Australian policy failure as the poorly trained and resourced Timorese soldiers became protagonists in the violence we have recently seen.

Australia did not train the Timor-Leste Defence Force; rather it sent hundreds of training advisers from 1999 onwards and did little but impart rudimentary skills. Deliberately ambiguous, conflicting orders from our military and civilian authorities, and serious differences between the departments of Defence and Foreign Affairs, underscored by a characteristic fawning toward Indonesia ensured the Australians charged with the task would never be able to achieve what they set out to do.

The Australian Government spent more than six million dollars on a training school at Metinaro, and rather than instilling a culture of unity, hon-
our and cohesion it missed this opportunity, and both Timorese and Australians would later pay for this. This failure was encapsulated in the comment by Major Steve McCrohon, one of those charged with training the Timorese, as quoted in the Bulletin:

“There was never any discipline as such and all of this present trouble can be brought back to what happened when we were there. It was a complete dog’s breakfast and I believe it was one of the great lost opportunities for Australia to really make a difference”

Speaking to Australians recently evacuated from Timor-Leste they were scathing regarding the Federal Government’s continuing narrow focus on the short term and the lack of commitment to enabling peaceful and prosperous nations in our region in the long term.

This Government must realize that it cannot continue intervening when things go horribly wrong – it must avoid these conflicts by actively making substantial long term commitments, ensuring stable and prosperous countries in our region. That Timor-Leste’s ongoing growth and development could be significantly undone by such events underscored the fragility of this new nation and emphasizes the need for Australia to make a substantial long term commitment to the development of Timor Leste, with an aim to developing the great potential that exists.

I am ashamed at how successive Australian Governments viewed the plight of the Timorese people and ignored their suffering, ultimately doing little to assist their plight. This has now changed and we have a historic opportunity to make the future of Timor-Leste one marked by cooperation, strength and friendship. We can work with Timorese to ensure that they prosper and have the standard of life that we take for granted. What we should not do is see our relationship with Timor as one where Australian interests take over-riding priority.

We witnessed a terrible failure of civic leaders and institutions in Timor-Leste which meant that unspeakable acts have been committed on ordinary people through no fault of their own. The violence largely arose out of ignorance and arrogance. Ignorance in that a largely meaningless arbitrary and historical divide separated neighbourhoods, pitting Timorese against Timorese in deadly violence, and arrogance shown by a Government that assumed everything was controllable and believed it had the trust of a largely sceptical populace, whose fears and distrust as it turns out, were well founded.

The current reality is complex and ugly and I hope this does not continue to claim the lives of Timorese, already having touched many. We need the Australian Government to broaden their focus from this narrow view of short term intervention to one of working together with the peoples of our region over our lifetime ensuring that they too have the opportunities and choices that our lives permit us.

Senator FORSHAW (New South Wales)  
(1.12 am)—The incorporated speech read as follows—

On Wednesday this week I spoke in this Senate regarding the disgraceful, inaccurate article entitled “Labor has a history of blind pacifism” written by the Foreign Minister, Mr Downer, and published in The Australian on 2 May 2006. I said in my speech that the article “distorts facts and history, draws erroneous conclusions and ignores the substantial evidence that contradicts his biased analysis.”

Tonight I intend to demonstrate further distortions and misrepresentations of history contained in Mr Downer’s article. I will also refute other outrageous and offensive propositions advanced by the Foreign Minister particularly in respect to our current involvement in the Iraq war and its aftermath.

In his attack on John Curtin and the Labor Party Mr Downer wrote:

He [ie: Curtin] had consistently been a pacifist, wanting to appease tyrannical regimes, and called for Australia to remain firmly isolated from the world’s great struggles. In response to the Italian invasion of Abyssinia, for example, Curtin opposed sanctions and stated that ‘the control of Abyssinia by any country is not worth the loss of a single Australian life’.

There are some interesting points to make about this spurious claim.
Firstly, I can find no record of Mr Curtin ever actually making this statement in the Parliament. The words quoted by Mr Downer were made in a speech to the House of Representatives by Mr Forde, Leader of the Opposition, on 23 September 1935 when the Parliament debated a statement by the Prime Minister, Mr Lyons, on the Italo-Abyssinian Dispute.

Secondly, and consistent with the rest of Mr Downer’s article, the statements are taken completely out of context and twisted to denigrate John Curtin and the ALP. Let me quote from Mr Forde’s speech.

Mr FORDE (Capricornia) [5.29]—Australia has been looking to the Prime Minister to make a definite pronouncement as to the attitude of his Government on the Abyssinian crisis. The other dominions outlined their attitude weeks ago. On the 8th September the Prime Minister of Canada was reported to have said, “Canadians will not be embroiled in any foreign quarrel in which the rights of Canadians are not involved. We have bought and paid for security and peace and we mean to have them”. The Defence Minister for South Africa stated that no son of that country would fire a shot without the people being consulted.

Although I admire the efforts of countries that have been striving to settle the dispute in a peaceful manner, and particularly the way in which Great Britain has endeavoured to have conciliation used in this dispute, I strongly hold the view that Australia should not allow the statesmen of any other country to determine this country’s course of action. The Federal Government should instruct its delegate at Geneva that Australia will not be a party to war. Surely there is no more reason why Australia should become involved today than when four provinces were wrested from China by an original member of the League of Nations. If it were not for the oilfields of Abyssinia, and other rich natural resources desired by great vested interests, there would not be these mad manoeuvrings for war. There would be the same apathy as was shown regarding the invasions of Manchuria.

What Minister Downer fails to acknowledge in his article is the similar attitude of the then Lyon’s UAP Government to this dispute. The Lyon’s Government believed that it was a territorial dispute and should be sorted out by the League of Nations rather than by the use of force or resort to war. The following is part of Prime Minister Lyon’s statement to the Parliament that day:

The Commonwealth Government, while convinced that the upholding of the principles of collective security embodied in the League of Nations is essential to the world’s peace, desires to point out that none of the provisions of the Covenant has been violated by either Italy or Abyssinia. The Government feels that discussion on these matters should not, at this juncture, assume that either of these countries will violate any its obligations in this regard. It therefore seems unwise either to anticipate any breach, or to announce in advance the course of action to be followed by the Commonwealth Government in contingencies the nature and circumstances of which cannot at present be foreseen. While fully recognised the gravity of the present situation, the Government hold very strongly that it ought not, either by word or by action, to embarrass those who are earnestly striving to effect a peaceful settlement.

Thirdly, when Japan had earlier invaded Manchuria in 1932, ignoring the League of Nations and the principle of territorial sovereignty, the world, including Australia, simply ignored it. Thousands of Manchurians and Chinese were massacred during those years of brutal occupation but the governments of the USA, the UK, France, and Australia did nothing. They turned a blind eye and mumbled the usual diplomatic concerns.

It is rather ironic that on that same date, 23 September 1935, just prior to his statement to the Parliament on the Italo-Abyssinian dispute, the Prime Minister Joe Lyons made another statement welcoming a goodwill mission from Japan to Australia.

It pays to check the record. Maybe Mr Downer thought he could get away with these gross misrepresentations and selective quotation. This article is deliberately deceitful. It ignores the appalling record of conservative Governments in Australia prior to World War II whilst making
false claims about the ALP’s and John Curtin’s record. When Australia faced its darkest hour in 1941 the people turned away from Menzies and the conservatives and looked to John Curtin and the ALP for leadership. He did not let them down.

Mr Downer has concocted his revisionist history to support his Government’s decision to join the invasion of Iraq and our continuing presence there. He promotes the view that strong leadership is measured by how often you go to war irrespective of the cost and the justification. Apparently, if you don’t support his view, than you will be branded as weak, an appeaser, and at worst, a supporter of totalitarian regimes.

Given this attitude one is entitled to question what has Mr Downer and the Government done to end the appalling genocide that has occurred in Zimbabwe and the Sudan. Why didn’t they act earlier to prevent the massacres in East Timor following the vote for independence – massacres that were predicted? The answer of course is that they did nothing until after the carnage. Should they be labelled appeasers and supporters of totalitarianism?

The Liberals, of course, are expert in getting Australia involved in war. On occasions their gung-ho attitude has led to disaster and/or an inglorious withdrawal.

In 1956 Liberal Prime Minister Menzies was determined to play a major role in the Suez Crisis. His bumbling diplomatic intervention was an international embarrassment and his support for Britain and France’s invasion of Egypt was a monumental blunder. Fortunately no Australian troops were involved and therefore no lives were lost.

Vietnam, of course was a disaster. The decision to commit combat forces, supposedly at the request of South Vietnam but which was later proved to be a lie, ultimately cost the lives of 500 Australians (185 conscripts) and 3,129 wounded (1039 conscripts). The conscripts were young men who were not even old enough to vote.

In the 1966 Federal Election the ALP was vilified. Anyone who opposed the Vietnam War was labelled a communist sympathiser, a coward or a traitor. Yet by 1971 the Coalition Government had to withdraw our troops from that disastrous futile war. Many of those veterans still carry the physical and mental scars today.

When it has been justified the ALP has supported the commitment of our armed forces to overseas conflicts. I refer to the Korean War of 1950 - 1953, the Malaysian Emergency of 1950, the First Gulf War in 1991 when the Hawke Labor Government was in power and, more recently, the conflict in Afghanistan. Similarly, the ALP has always strongly supported the deployment of troops and other personnel such as the AFP to assist in peace-keeping operations in many parts of the world and particularly in our own region.

The Government now has our armed forces stretched to the limit due to our involvement in the Iraq war and its bloody aftermath. The Government’s decision to join the war in Iraq was based on a series of false assertions. We were told by the Prime Minister and the Foreign Minister that the invasion of Iraq was not to bring about regime change - it was not about removing Saddam Hussein. Yet in his article Minster Downer attacks the ALP claiming that “Beazley thought that we should have left Saddam Hussein in power; we were wrong to help our allies get rid of him.”

What hypocrisy! It was actually the Prime Minister Mr Howard and Mr Downer who said that there would be no need to invade Iraq if Saddam Hussein would just tell the world where his weapons of mass destruction were hidden. In other words the Prime Minister and Mr Downer were quite happy to leave Saddam Hussein in power.

We were told that we went to war because Iraq had stockpiles of weapons of mass destruction that would be used to promote terrorism. Yet after three years no such weapons of mass destruction have been discovered.

We are now told that the reason for our presence in Iraq is to help bring democracy and peace to the Middle East. In other words, it was really about regime change after all. After three years following that regime change the situation in Iraq has become a nightmare. Dozens of civilians are being killed every day, usually blown to bits by suicide bombers. Many are kidnapped and executed by terrorists and criminal gangs. The total
number of civilians killed so far amounts to tens if not hundreds of thousands. Over 2,500 US troops and over 200 British and other forces have lost their lives. Religious fanatics from both the Shia and Sunni factions are provoking a civil war. Iran has become more emboldened and more belligerent. Osama Bin Laden still roams free. Peace and democracy in the region are further away than ever before.

What is truly amazing is that Mr Downer, in his article, has the temerity to make the following statement:

Australia needs leaders who have the moral clarity to see right from wrong. We need to stand up for what we believe and live up to our responsibilities, as a significant country, to contribute to the global struggle.

Mr Downer’s attack on John Curtin’s legacy in his article in The Australian follows a similar speech he delivered on 17 May 2005. The speech on that occasion was in honour of Sir Earle Page, the former leader of the Country Party. Given Mr Downer’s vicious attack on John Curtin I thought it might be interesting to read what Sir Earle Page said in Parliament on 5 July 1945 following the death of John Curtin. This is part of his tribute:

Sir EARLE PAGE (Cowper)—I desire to offer my deep sympathy to Mrs. Curtin and her children, and also pay homage of respect and gratitude to John Curtin for his great public services to Australia, the Empire, and the world. His premature death shocks every one in Australia. Especially does it shock those of us who were privileged to know him and to serve alongside him in this Parliament for so many years. He had died as a direct result of the tremendous tasks and responsibilities that war has entailed. He is a war casualty, as much as is any fighting man.

John Curtin came into this Parliament with a well-stored mind and a very keen intelligence. It was a matter for pleasure to see how, with increasing responsibilities and experience of administration, his mental stature and grasp of affairs progressively grew. He became a spokesman for Australia, of whom we all were proud. He was one of our most gifted orators and masters of expression. He was a great parliamentary leader, and a distinguished servant of the people who he loved.

I extend my profound sympathy to his widow and family, to his party, and to the nation at his untimely passing when he can be so ill-spared.

Sadly Australia’s leader today, Prime Minister Howard, and his Foreign Minister Mr Downer, do not have the wit to see what a horrible mess their hubris has caused. All they can do is resort to revisionist history and character assassination to try and elevate their own status and justify their decisions.

Samuel Johnson was certainly correct when he said “Patriotism is the last refuge of scoundrels.”

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.12 am)—I seek leave to incorporate my second reading debate speech in Hansard and I commend the bills to the Senate.

Leave granted.

The speech reads as follows—

I am pleased to bring what has been a lively debate to a close and to thank those members who have made a contribution.

I would like to take this opportunity to provide an overview of the package of appropriation bills. I will start with the budget bills.

These bills provide for substantial funding totalling approximately $62.7 billion. They reflect the government’s commitment to build opportunities for the future by investing in families, the aged, defence and security, and transport and water. The initiatives for which the budget provides include:

- Funding of $48 billion on health and aged care, including a new $1.9 billion package over five years for mental health services;
- A comprehensive tax reform plan that provides another instalment in income tax reform; incorporates a major improvement in business tax; and includes a proposal to simplify and streamline superannuation which represents the most significant change in nearly 20 years;
• Provision of additional assistance to almost half a million Australian families through the Family Tax Benefit System, costing $993 million over four years;
• Removing the limit on the number of subsidised outside school hours care and family day care places, which is expected to generate an additional 25,000 places by 2009;
• $5 billion to enhance our training and skills under the new national training agreement covering 2005 to 2008; and
• An additional $389 million over four years to combat illegal fishing, which will include increased surface and air surveillance and patrol capability, which is expected to double the number of fishing vessels apprehended in Australia’s northern waters each year.

Also included in the package of five appropriation bills are two supplementary additional estimates bills for this financial year, 2005-06. These bills propose expenditure of $3.6 billion for important initiatives that can be accommodated this financial year because of the strength of our fiscal position and the Australian economy generally. The funding in the supplementary additional estimates bills provides, amongst other things:
• Increased funding of $2.1 billion for the AusLink Programme;
• An additional $521.2 million to extinguish the Australian Government’s liability for the superannuation entitlements of former State Rail employees of South Australia and Tasmania;
• An injection of $500 million to the Murray-Darling Basin Commission to undertake a range of capital works and improvements to protect the resources of the basin and enhance environmental flows;
• An additional $310.4 million to fund a coordinated package of measures to assist those adversely affected by Tropical Cyclone Larry;
• Grants totalling $265 million to a number of medical research facilities; and
• A payment of $270 million to the Australian Rail Track Corporation to assist with investment in Australia’s interstate rail network.

**Strong Economy and Sound Budget Management**

I wish to emphasise that the significant level of expenditure proposed in the package of bills is only possible because of the government’s continued strong management of the economy and ongoing economic reform.

Through its commitment to sound financial management, the government has put the budget in surplus, retired Government net debt, and commenced saving for its future obligations. This has freed the next generation of Australians to meet their own challenges, unencumbered by the legacy of past Labor Governments that spent beyond their means.

Australia’s impressive economic performance of the last decade is set to continue. The outlook is for ongoing solid economic growth coupled with low unemployment and moderate inflation.

**Tax Reform**

The tax cuts announced in the 2006-07 budget build on the reforms delivered through the New Tax System (announced in July 2000), and the initiatives contained in the 2003-04, 2004-05 and 2005-06 budgets. The combined effect of these tax reforms has been to deliver significant reductions in tax for all taxpayers.

The Opposition has made misleading comments about the equity of the tax reforms announced in the Budget. As the Treasurer has demonstrated, the largest tax cut in percentage terms is for people earning $10,000—they have a tax cut of 100 per cent.

Of course, in dollar terms, the tax cuts are greater for the higher income earners, but that’s because they are paying more tax.

In distributional terms, however, the greatest percentage tax cuts go to lower income earners.

To those who argue that we have not addressed bracket creep, it should be remembered that eighty per cent of taxpayers are on taxable incomes of $75,000, or less. As their income increases, they do not move to a higher marginal tax rate. The great bulk of taxpayers can move through the range of $25,000 to $75,000 without changing their marginal rate, which means that most Australians will not be facing an increase in
marginal tax rates over the course of their working lives.

Superannuation Reforms

However, this budget not only restructures the income tax provisions, it also proposes the most significant and far-sighted reforms to Australia’s superannuation system in decades.

At the heart of the proposed changes is a plan to exempt people aged 60 or over from any tax on payments from their fund, where these are paid from a taxed superannuation fund.

In addition, reasonable benefit limits and age based limits would be abolished, and the self employed would be able to claim a full deduction for their contributions and would also be eligible for the Government co-contribution.

These reforms are simple to understand and will encourage people to save for their retirement and to stay in the workforce longer.

Conclusion

In conclusion, the three budget bills for 2006-07 and the two supplementary additional estimates bills for 2005-06 are important pieces of legislation underpinning the government’s activities and reforms to be introduced over the next 12 months. The initiatives contained in the budget will ensure that the economy continues to prosper and will position us to meet the challenges that lie ahead. I commend the budget bills and the supplementary additional estimates bills to the Senate.

Question agreed to.

Bills read a second time.

In Committee

APPROPRIATION BILL (No. 1) 2006-2007

Bill—by leave—taken as a whole.

Senator MURRAY (Western Australia) (1.13 am)—by leave—I, and also on behalf of Senator Stephens, move amendments (1) and (2) together on sheet 4962:

That the House of Representatives be requested to make the following amendments:

(1) Clause 11, page 8 (after line 9), at the end of the clause, add:

(4) A copy of a determination made under subsection (1) together with a statement of reasons for the determination must be tabled in each House of the Parliament within 3 sitting days of that House after being made.

(5) The statement of reasons required by subsection (4) must include details of the purpose, objects and expected outcomes of the expenditure.

(2) Clause 12, page 8 (after line 30), at the end of the clause, add:

(5) A copy of a determination made under subsection (2) together with a statement of reasons for the determination must be tabled in each House of the Parliament within 3 sitting days of that House after being made.

(6) The statement of reasons required by subsection (5) must include details of the purpose, objects and expected outcomes of the expenditure.

Statement pursuant to the order of the Senate of 26 June 2000—

These amendments are framed as requests because they are to a bill which appropriates moneys for the ordinary annual services of the government.

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000—

As this is a bill appropriating moneys for the ordinary annual services of the government the amendment is moved as a request. This is in accordance with the precedents of the Senate. Whether all of the purposes of expenditure now covered by this bill are actually ordinary annual services is a matter under examination by the Appropriations and Staffing Committee.

I make the Senate aware that sheet 4965 has the same amendments for Appropriation Bill (No. 2) 2006-2007. My remarks with respect to this bill will apply to the next bill, so I will not repeat what I have said. These two amendments constitute another attempt by the Democrats and Labor jointly to initiate further accountability mechanisms which improve the reporting and transparency of
appropriations. Appropriation Bill (No. 1) 2006-2007 gives the finance minister the discretion to increase spending on departmental items by up to $20 million and to increase the total amount appropriated by up to $175 million, with the added sting in the tail that the minister’s determinations are not disallowable instruments, although they are legislative instruments. The problem, if we were to initiate a disallowance provision, would be that the minister would make the determinations in a non-sitting period and the money would be committed and/or expended before the Senate had the opportunity to consider a disallowance motion, but without the disallowance provision he would probably have to spend it anyway.

The fact that a number of the provisions in these bills are non-disallowable legislative instruments is a general concern. But the difficulty we have is that the finance minister does genuinely need flexibility, speed and certainty in responding rapidly to some finance needs. Up until 1 January 2005 the department of finance tabled monthly statements of issues from the advances in parliament. The commencement of the Legislative Instruments Act 2003 altered this, and the advances are now posted on the Federal Register of Legislative Instruments. They must be tabled within six days of registration, and they are not disallowable.

As tempting as it is, making the individual determinations disallowable may try to go a bit far. AMFs are signed off by the finance minister’s delegate where they are urgent and either unforeseen or required because of erroneous omission. Often there is extreme time pressure involved in getting the money out—for example, providing immediate relief after Cyclone Larry—so any perceived or actual delay or interruption in the capacity for agencies to contract or commit may cause problems in such time pressured circumstances. The solution is to have improved reporting of the detail of AMFs and for them to be laid before the Senate as well as there being improved descriptions on the current database. The current descriptions are limited. They are also somewhat hidden on the Federal Register of Legislative Instruments. Something which requires better information on the purposes, objects and expected outcomes would be a good start.

I would suggest to the parliamentary secretary and to the advisers present from DOFA that, if this amendment is defeated, there is nothing to stop DOFA introducing this as good practice anyway. I personally have a high respect for that department and its officers. I think this is a good additional accountability mechanism we are offering. If you are going to reject the amendment, we would like you to look at the practice anyway, because we think it would be an improvement.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.18 am)—The government does not support the request for amendment moved by Senators Murray and Stephens. Determinations created under these provisions are already legislative instruments, as Senator Murray said, and are registered as soon as practicable after creation, together with an explanatory statement, on the Federal Register of Legislative Instruments, as required by the Legislative Instruments Act 2003. All legislative instruments registered on the Federal Register of Legislative Instruments are tabled in both houses of parliament within six sitting days after registration. Therefore the proposed amendments are unnecessary and could result in a duplicate tabling of determinations made under these provisions.

Question negatived.

Senator MURRAY (Western Australia) (1.19 am)—I, on behalf of the Australian
Democrats, and also on behalf of Senator Evans, the Leader of the Opposition in the Senate, move:

(1) That the House of Representatives be requested to make the following amendment:
Page 10 (after line 8), after clause 14, insert:

14A Advertising and public information projects

(1) No amount appropriated by this Act is to be expended for any advertising or public information project where the cost of the project is estimated to be $100,000 or more, unless:

(a) a statement in accordance with subsection (2) has been provided to the Auditor-General; and

(b) the Auditor-General has issued a certificate certifying that the project conforms with the Audit and JCPAA guidelines.

(2) A statement under subsection (1) must indicate:

(a) the purpose and nature of the project;

(b) the intended recipients of the information to be communicated by the project;

(c) who is to authorise the project;

(d) the manner in which the project is to be carried out;

(e) who is to carry out the project;

(f) whether the project is to be carried out under a contract;

(g) whether such contract is to be let by tender;

(h) the estimated cost of the project; and

(i) the details of the type of media to be used for the project.

(3) A statement and certificate under subsection (1) must be:

(a) published in the Gazette; and

(b) laid before each House of the Parliament within six sitting days of that House after the certificate is issued.

(4) In this section, Audit and JCPAA guidelines means the guidelines set out in Report No. 12 of 1998-99 of the Auditor-General, entitled Taxation Reform: community education and information programme, and Report No. 377 of the Joint Committee of Public Accounts and Audit, entitled Guidelines for Government Advertising, respectively.

Statement pursuant to the order of the Senate of 26 June 2000—
This amendment is framed as a request because it is to a bill which appropriates moneys for the ordinary annual services of the government.

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000—
As this is a bill appropriating moneys for the ordinary annual services of the government the amendment is moved as a request. This is in accordance with the precedents of the Senate.

Whether all of the purposes of expenditure now covered by this bill are actually ordinary annual services is a matter under examination by the Appropriations and Staffing Committee.

This continues a campaign that Labor and the Democrats have been on for a very long time now. We think it is to the great shame of the Howard government that they have refused to accede to general public demand as well as a strong parliamentary campaign for greater accountability with respect to government advertising and public information projects. This is not fanciful material from our parties; this is soundly grounded in strong recommendations from the Auditor-General, and these general requirements have been looked at by the Joint Committee of Public Accounts and Audit.

We have moved such amendments before and we will continue to do so as the circumstances arise. If there is one area where this government is tricky and, I think, engages in
a corrupt process—and I use those words deliberately—it is in the way in which it decides on the way in which money shall be used for government advertising when it has a blatantly political purpose. Much government advertising and public information is not at all to be condemned and should just be accepted as part of the normal function of government, but a good deal of the advertising expenditure occasions great media and public and political comment. We do not like it. We condemn you for it. We think it reflects badly on you and your standards.

The Democrats put up this amendment with Labor not as a futile gesture but as a firm statement of the sorts of standards and accountability an honest government would not hesitate to abide by. That this one does not speaks volumes, and it does not reflect well on the good men and women who populate the coalition back benches and parties. This form of abuse of taxpayers’ funds for blatantly political purposes on occasion is a grotesque abuse of taxpayers’ funds. I cannot put it more strongly than that.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (1.22 am)—I rise briefly to support Senator Murray in this request for amendment. I pay tribute to Senator Murray’s persistence in these matters. It has been a long and so far fruitless campaign, but I am sure, Senator Murray, that you will win in the end. Labor is happy to support the propositions because I think, as Senator Murray rightly said, this is a very important issue of accountability, supports the reports of the Auditor-General and seeks to highlight the misuse of taxpayers’ funds for promotion of the government rather than information of use to the population in accessing government services.

Increasingly, this abuse has become a cause of concern in the community and an issue of public notoriety. When at estimates committees we examine the processes for the approval of these campaigns and the use of advertising, it is absolutely clear that the government advertising projects and approval processes are now an arm of the political party. The committees are staffed by people of my ilk—former party officials. They employ advertising agencies with clear links to the government parties. They employ consultants with clear links to the government parties. The links between the Liberal-National Party campaign and advertising teams and the campaign and advertising teams of the government for these programs is so close as to be almost indistinguishable.

It is a rort. It is an absolute abuse of taxpayers’ funds. People say in response to these critiques, ‘State governments are just as bad.’ If they are, they ought to be criticised and they ought to be held to account as well. This has got well beyond a joke. It is actually used by governments now to protect their position. These campaigns have gone well beyond any sense of providing any information and assistance to taxpayers. We saw another terrible example with the recent industrial relations campaign, where money was thrown at trying to convince the Australian public that something that was clearly bad for them was in fact in their interests. There was of course an enormous waste of taxpayers’ money in that campaign.

I do not want to delay the Senate tonight other than to say that I think this would be a very worthwhile improvement to the accountability of the government. As I say, we have been debating accountability a fair bit in the last 48 hours. This is a really important issue. It will not go away. We have had Senate inquiries, we have had a whole range of activities that have sought to shine light on these issues. Every time a light is shone on them it becomes clearer and clearer that these campaigns are being used as an arm of
the political party in power. I think we have to question whether or not this should be tolerated or regarded as legal. It seems to me that this is, as Senator Murray said, corrupt. I have much pleasure in supporting the resolution—knowing again that it will be defeated. But I am sure that, when the next outrage becomes public, there will such a demand for change that change will eventuate.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.27 am)—The government does not support the request for amendment moved by Senators Murray and Evans. The appropriation acts would not be the correct vehicle for these kinds of restrictions. The appropriation acts properly deal with financial matters rather than compliance with specific policy requirements. Moreover, the proposals essentially involve reporting of particular types of procurement, and the requirements for reporting on procurement matters would typically be covered in a subsidiary law rather than an act of parliament.

I want to quickly go back to the previous amendment, just to make a comment, Senator Murray, in relation to the consideration of adopting that as practice. I am happy to take that back to the minister and we can have a look at the reality of doing that.

Question negatived.

Bill agreed to.

APPROPRIATION BILL (No. 2) 2006-2007

Senator MURRAY (Western Australia) (1.28 am)—by leave—I move amendments (1) and (2) on sheet 4965 together:

(1) Clause 12, page 9 (after line 12), at the end of the clause, add:

(4) A copy of a determination made under subsection (1) together with a statement of reasons for the determination must be tabled in each House of the Parliament within 3 sitting days of that House after being made.

(5) The statement of reasons required by subsection (4) must include details of the purpose, objects and expected outcomes of the expenditure.

(2) Clause 13, page 10 (after line 3), at the end of the clause, add:

(5) A copy of a determination made under subsection (2) together with a statement of reasons for the determination must be tabled in each House of the Parliament within 3 sitting days of that House after being made.

(6) The statement of reasons required by subsection (5) must include details of the purpose, objects and expected outcomes of the expenditure.

Question negatived.

Senator MURRAY (Western Australia) (1.28 am)—I, on behalf of the Australian Democrats, and also on behalf of Senator Evans, the Leader of the Opposition in the Senate, move:

That the House of Representatives be requested to make the following amendment:

(1) Page 12 (after line 5), after clause 15, insert:

15A Advertising and public information projects

(1) No amount appropriated by this Act is to be expended for any advertising or public information project where the cost of the project is estimated to be $100,000 or more, unless:

(a) a statement in accordance with subsection (2) has been provided to the Auditor-General; and

(b) the Auditor-General has issued a certificate certifying that the project conforms with the Audit and JCPAA guidelines.

(2) A statement under subsection (1) must indicate:

(a) the purpose and nature of the project;
(b) the intended recipients of the information to be communicated by the project;
(c) who is to authorise the project;
(d) the manner in which the project is to be carried out;
(e) who is to carry out the project;
(f) whether the project is to be carried out under a contract;
(g) whether such contract is to be let by tender;
(h) the estimated cost of the project; and
(i) the details of the type of media to be used for the project.

(3) A statement and certificate under subsection (1) must be:
(a) published in the Gazette; and
(b) laid before each House of the Parliament within six sitting days of that House after the certificate is issued.

(4) In this section, Audit and JCPAA guidelines means the guidelines set out in Report No. 12 of 1998-99 of the Auditor-General, entitled Taxation Reform: community education and information programme, and Report No. 377 of the Joint Committee of Public Accounts and Audit, entitled Guidelines for Government Advertising, respectively.

Statement pursuant to the order of the Senate of 26 June 2000—
This amendment is framed as a request because it is to a bill which appropriates moneys for the ordinary annual services of the government.

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000—
As this is a bill appropriating moneys for the ordinary annual services of the government the amendment is moved as a request. This is in accordance with the precedents of the Senate. Whether all of the purposes of expenditure now covered by this bill are actually ordinary annual services is a matter under examination by the Appropriations and Staffing Committee.

Question negatived.
Bill agreed to.

Appropriation Bill (No. 1) 2006-2007 reported without requests; Appropriation Bill (No. 2) 2006-2007 reported without amendment; report adopted.

APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 1) 2006-2007

APPROPRIATION BILL (No. 1) 2006-2007

APPROPRIATION BILL (No. 2) 2006-2007

APPROPRIATION BILL (No. 5) 2005-2006

APPROPRIATION BILL (No. 6) 2005-2006

Third Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.30 am)—I move:


Question agreed to.
Bills read a third time.

BUSINESS
Rearrangement

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.30 am)—by leave—I move:

That the Senate not meet at 9 am on Friday, 23 June 2006.

Question agreed to.
Leave of Absence

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.30 am)—I move:

That leave of absence be granted to every member of the Senate from the termination of the sitting today to the day on which the Senate next meets.

Question agreed to.

ADJOURNMENT

The DEPUTY PRESIDENT—Order! It being 1.31 am, I propose the question:

That the Senate do now adjourn.

Volunteering

Senator SCULLION (Northern Territory) (1.31 am)—I seek leave to incorporate a speech by Senator Guy Barnett.

Leave granted.

Senator BARNETT (Tasmania) (1.31 am)—The incorporated speech read as follows—

I proudly stand here tonight to pledge my support for Australia’s volunteers. Volunteers in Australia today are undervalued and under recognised. As a country we can do a lot more to help. In terms of help I believe that we should be specifically considering the merits of tax deductions, tax rebates or the reimbursement of certain out of pocket expenses such as petrol, phone costs, postage and uniforms would be in order.

I do so with pride because I have recently prepared and submitted a 29-page submission for the Howard Government on ways of helping our volunteers. As a community I do not think we fully appreciate just how valuable our volunteers are to a vibrant and buoyant Australian society and economy.

The incidence of volunteering in Australia has doubled over the past decade from 3.2 million Australians aged over 18 years in 1995 to 6.3 million last year. There are as many as 700,000 not-for-profit organisations and only about 35,000 employ staff, with the great majority to varying degrees using volunteer staff.

The value of volunteering has been estimated conservatively to be worth $30 billion per year, or $82 million a day in today’s dollar terms, and approximately 3% of GDP. That is a huge chunk of normal Government expenses, donated free of charge—representing almost 14% of total Federal Budget outlays in 2006-07.

Some estimates and in particular from Professor Ironmonger, have put the figure at $42 billion and in today’s dollars at approximately $50 billion or 23% of total Federal Budget outlays. Either way, whether it’s $30 billion or $50 billion volunteering is a huge contribution towards the delivery of public, community, and other services in Australia—free of charge.

Put it another way. If we were to suddenly lose all our volunteers the Federal State and local Budget would be in crisis and our community as we know it would collapse. It would require a massive hike in taxes and massive cuts in expenditure to maintain a semblance of service delivery.

Bureau of Statistics figures show that in 1995 volunteering stood at 24%. This grew to 32.4% in 2000 and 41% of the adult population in 2005. Volunteering is most prevalent in the 35 to 44 age group, but numbers among young people are growing fast, with volunteers aged between 18 and 24 contributing on average 132 hours per year.

My submission with 13 proposals was prepared with generous help from Volunteering Australia and Volunteering Tasmania, and I personally thank Volunteering Australia CEO Sha Cordingly, and Volunteering Tasmania CEO Maxine Griffiths.

In 1995 Australians donated 510 million hours to community organisations. By 2000 this had grown to 704 million and in 2005 it stood at 836 million hours.

As a result of my submission and meetings which Volunteering Australia and also Major General Hori Howard (Retired) Chair of the Australian Emergency Management Volunteer Forum and the State Emergency Services Council have recently had with key decision makers in the Government, Professor Myles McGregor OAM of the Faculty of Business at Queensland University of Technology and tax expert has been approached to prepare more taxation and other financial work
and modelling on how we can help the nation’s volunteers without breaching the principle of volunteering by paying them.

Other taxation legal accounting and not for profit experts are also expected to be invited to contribute to this expert taskforce and report back to me and the Government within 3 months. I also want to take this opportunity to thank Kym Richardson MP who has played an integral role in promoting the proposals and has attended meetings with key decision makers and others to help our volunteers. I look forward to continuing this effort with Kym and indeed other coalition MPs.

Key proposals from my submission include:

- **Increased funding** for equipment grants for volunteering or Government has provided more than $29 million to 14,000 community organisations.

- **Changes to the taxation system** to provide equitable relief to defray the cost to the individual of volunteering, such as tax deductions or a tax rebate. I note in particular that tax deductions are provided in the USA.

- **A Contribution to out of pocket expenses** such as training and uniforms, petrol, telephone and postage. Volunteers can spend sometimes in excess of $100 per week in petrol costs, let alone transport, travel, postage and phone costs in order to volunteer.

- **More incentives for corporate volunteering** to allow and encourage more employee volunteering programs during work time.

- **Support for the upgrading and maintenance of a volunteer register.**

- **A permanent inclusion of a volunteer question in the Census** of the Australian Population and regular ABS updates on volunteering.

- **A specific Volunteer Medal** in the Order of Australia awards.

- **Funding for research** into issues that affect volunteers and volunteering.

- **Remove red tape** adversely affecting or impeding volunteering.

Mr President I want to place on record my assessment of the concept of volunteering, and where it fits with our society. The efforts of volunteers in Australia provide the moral spinal cord of our economic and social fabric. It is the volunteer character of this activity that creates, nurtures and replenishes the relationship of trust in our country, and provides us with one of our greatest human and moral assets as a nation especially in times of need and crisis.

I don’t mind drawing an analogy between our volunteers and the Anzac spirit that persisted at Gallipoli and similar places in the world. Less dramatic, perhaps, but no less worthy.

The Macquarie Dictionary defines a volunteer as “one who enters into any service of his own free will, or who offers himself for any service or undertaking”. The International Year of Volunteers in 2001 was successful because it built on this foundation.

Volunteerism is an important indicator of our social, moral and spiritual health and well being as a nation.

While not exclusively an Australian practice, volunteering is an integral part of our Australian culture. Culturally and spiritually it ranges from “Thank God for the Salvos” to Meals on Wheels, from the local ambulance, fire service to the church fair or country ‘appeal’, to support for the Melbourne Commonwealth Games and Sydney Olympics to the 14 day rescue effort at the Beaconsfield Mine in Tasmania, to the provision of care and counselling for those affected by the Bali bombings, to hands-on administration and management support for disability, community, service, charity or other local groups.

The list of community groups and volunteer effort goes on and on and on. Volunteerism was recognised in the Biblical story about the Good Samaritan, often taught in Sunday school or primary school and the Bible message – “Love thy Neighbour as thyself” - helping a mate (male or female) when they’re down, irrespective of whether the volunteer knows them personally or not.

The ANZAC spirit of mateship, sacrifice and bravery impregnate the service ethic of volunteers. Our servicemen and women epitomise the gift of sacrifice that is so dominant amongst Australian volunteers. Churches, charities, and a mul-
Atitude of service and community groups all contribute. More often than not this contribution is unseen. The contribution is made by the quiet but persistent achiever. These people give of themselves, expecting little or nothing in return but the pleasure of knowing they have contributed to a better community – a better Australia.

Most fire ambulance and other emergency services throughout Australia, particularly in rural and regional centres, rely on volunteers. In Tasmania alone we have some 5,000 fire service volunteers, primarily in rural, regional and outlying areas. The training undertaken by these volunteers is often regular and nearly always selfless requiring not only the cost of time, but financial sacrifices in terms of travel and transport costs, ie petrol, phone and postage. The cost of on-the-job volunteerism is incalculable in terms of the psychological effects.

Most volunteers of course would say the latter would be a positive effect. In one instance I had a complaint from a volunteer in Hobart who could not afford to pay the $100 per week for petrol to provide his volunteer service.

The cost of volunteering has become prohibitive particularly from the high cost of petrol. In a recent letter by a volunteer ambulance officer on Tasmania’s East Coast it says:

“Around Tasmania, volunteers provide a significant proportion of the State’s emergency services. All Swansea’s emergency services (Ambulance, Coastguard, Fire Service, and State Emergency Service) are staffed entirely by volunteers.

‘These volunteers donate many hours each month to the community, through time spent in training, in maintaining vehicles and equipment and in responding to emergencies.

In addition to giving their time, volunteers also support Tasmania’s state emergency services from their own pockets, in paying for expenses such as fuel and telephone use incurred in the course of their duties.

‘Many volunteers are on low incomes, some on pensions. Many live out of town and bear a significant cost in getting to town for training and meeting their commitments as volunteers. The cost of fuel is significant for these people. With the continuing rise in the cost of fuel, it will become a proportionately larger cost for volunteers.

‘I would like to see all costs incurred by volunteers in the course of their volunteering (such as fuel and phone expenses), be tax deductible for those who are able to claim tax deductions, and recompensed for those receiving pensions or benefit payments.’

Already the number of volunteers in all emergency services in Swansea has fallen in recent years. I believe this situation is widespread, and it results in a heavy load falling on a few people, and in some situations threatens the viability of the emergency service in a community. With escalating fuel costs it is likely we will have another reason for the loss of our volunteers.”

The corporate sector has given financially to this and other needs and have backed the objectives of many other church, charity or community groups both directly and through the contribution of staff time. The Australian Government’s response to the Asian tsunami was a proud moment in my Senate career.

My submission is not about undermining or ruining the concept of volunteering – by suggesting that we pay people to volunteer - because that would be absolutely counter-productive, a contradiction in terms, and I believe a majority of Australians would reject such a move as unnecessary and unwelcome.

It was, however, about Australians acknowledging the contribution made and saying thankyou, not only for the human value placed on volunteering, but also for the staggering financial value they are worth to their country. It was about the Australian community collectively doing their bit for volunteering in a systematic and reasonable way.

Let me also say, that any form of recognition and compensation by the community, through governments, should not be restricted to the Federal Government. This is a whole of community responsibility and obligation, and clearly the other two tiers of government have a role to play and a fair share of the cost to bear.

As a rule, volunteers who incur expenses in the course of their duties are not able to claim income tax deductions in their personal income tax re-
turns. The Australian Taxation Office has a determination which regards volunteer expenses as not incurred in earning assessable income, and therefore not subject to deductions. Financial donations to a non-profit organisation assist in the payments of expenses like salaries and equipment. The donations are tax deductible. Why should not the valuable contribution of a volunteer also be tax-deductible, or reimbursed if they are not a PAYE taxpayer?

The Government needs to incorporate our army of volunteers into our social system in terms of the tax laws, and by doing so, honouring and encouraging them, rather than appearing to routinely accept their generosity and doggedly expecting their contribution. This sadly has the effect of sapping the volunteering spirit.

Mr President, I believe volunteering is a largely untapped and huge opportunity with which to engage the community especially regional Australia and will be seeking support and feedback from the community.

If volunteering returns billions of dollars each year in value to Australia’s economy, then the financial capital invested by government, in recognition of volunteering, is a small price to pay, and yet one which I believe all volunteers and the community at large would applaud. It is clearly a worthwhile investment in the social capital of our nation.

Senate adjourned at 1.32 am

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Corporations Act—ASIC Class Order [CO 06/476] [F2006L01862]*.

Hearing Services Administration Act—Hearing Services Amendment Rules of Conduct 2006 (No. 1) [F2006L01861]*.

Medical Indemnity Act—Medical Indemnity (Run-off Cover Claims and Administration) Protocol 2006 [F2006L01892]*.

National Health Act—Determination No. PB 25 of 2006 [F2006L01880]*.


Safety, Rehabilitation and Compensation Act—Safety, Rehabilitation and Compensation (Definition of Employee) Notice 2006 (2) [F2006L01819]*.

* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Defence Signals Directorate Reports

(Question No. 56)

Senator Chris Evans asked the Minister representing the Minister for Defence, upon notice, on 17 November 2004:

With reference to all forms of end product report by the Defence Signals Directorate (DSD reports) which summarise raw intelligence product:

(1) Which ministers received any of the DSD reports that were found by the Inspector-General to be in breach of the Rules on Sigint and Australian Persons.

(2) On what precise dates did this occur.

(3) Which minister’s offices, that is personal staff members or departmental liaison officers, received the DSD reports that were in breach of the Rules on Sigint and Australian Persons.

(4) On what precise dates did this occur.

(5) Did any departments receive any of the DSD reports that were in breach of the Rules on Sigint and Australian Persons; if so, which ones and on what dates.

(6) For both (1) and (3), were all four DSD reports that the Inspector-General found breached the rules received by each of the ministers and/or minister’s office.

(7) Of those reports that were in breach of the rules and were received by a minister and/or minister’s office, did they include either of the two reports containing intelligence information on communications by an Australian lawyer with a foreign client.

(In this question, the phrase ‘DSD reports’ refers to all forms of end product by the DSD which summarise raw intelligence product. Such reports are variously referred to in the summary of the Inspector-general for Security and Intelligences MV Tampa investigation as ‘reports summarising the results of collection activity’, ‘end product reports’ and ‘situation updates’.)

Senator Ian Campbell—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) None of the four reports referred to were distributed by DSD to Ministers or their offices. However, summaries of three of the reports were included by DSD in the ‘situation updates’ it issued on 30 and 31 August, and 3 September 2001.

The first of those situation updates was received by the then-Minister for Defence, the Hon Peter Reith MP.

(2) 30 August 2001.

(3) Copies of DSD’s situation updates that included details of the reports that were in breach of the Rules on Sigint and Australian persons were sent to the following offices:

• Office of the Prime Minister;
• Office of the Minister for Defence;
• Office of the Minister for Foreign Affairs; and
• Office of the Minister for Immigration and Multicultural Affairs.
(4) These situation updates were delivered to the Ministers’ offices on 30 and 31 August, and 3 September 2001.

(5) The departments and agencies that received copies of the four intelligence reports were:

- Department of the Prime Minister and Cabinet;
- Department of Defence;
- Department of Foreign Affairs and Trade;
- Department of Immigration and Multicultural Affairs;
- Department of Agriculture, Fisheries and Forestry – Australia;
- Australian Customs Service;
- Australian Federal Police;
- Coastwatch;
- National Crime Authority;
- Office of the Inspector-General of Intelligence and Security; and
- Members of the Australian Intelligence Community.

The first of the four intelligence reports was delivered on 30 August 2001. In addition to the departments and agencies listed above, this was also distributed to the Office of Strategic Crime Assessments. Two intelligence reports were distributed to the departments and agencies listed above on 31 August 2001 and another report on 3 September 2001.

The departments and agencies that received copies of the situation updates were:

- Department of the Prime Minister and Cabinet;
- Department of Defence;
- Department of Foreign Affairs and Trade;
- Australian Secret Intelligence Service;
- Australian Security Intelligence Organisation; and
- Office of National Assessments.

These situation updates were delivered to departments and agencies on 30 and 31 August, and 3 September 2001.

(6) The offices of the Prime Minister, Minister for Defence, Minister for Foreign Affairs and Minister for Immigration and Multicultural Affairs received the summaries of the three intelligence reports in the situation updates referred to previously.

The four intelligence reports were not distributed to the Ministers’ offices.

(7) Summaries of the two reports containing intelligence information on communications by an Australian lawyer with a foreign client were contained in the situation updates sent by DSD to the Ministers’ offices listed above.

I would also draw attention to the conclusion reached by the Inspector-General of Intelligence and Security that “three of the reports contained no information derived from Australian communications that a reader could have put to any practical use. The fourth could, in theory but not in practice, have given advance notice of legal proceedings to be instituted against the Government in an Australian court.”
Minister for Revenue and Assistant Treasurer: Overseas Travel
(Question No. 732)

Senator Chris Evans asked the Minister representing the Minister for Revenue and Assistant Treasurer, upon notice, on 4 May 2005:

For each financial year since 2000-01 to 2004-05 to date:

1. (a) What overseas travel was undertaken by the Minister; (b) what was the purpose of the Minister’s visit; (c) when did the Minister depart Australia; (d) who travelled with the Minister; and (e) when did the Minister return to Australia.

2. (a) Who did the Minister meet during the visit; and (b) what were the times and dates of each meeting.

3. (a) On how many of these trips was the Minister accompanied by a business delegation; and (b) can details be provided of any delegation accompanying the Minister.

4. Who met the cost of travel and other expenses associated with the trip.

5. What total travel and associated expenses, if any, were met by the department in relation to: (a) the Minister; (b) the Minister’s family; (c) the Minister’s staff; and (d) departmental and/or agency staff.

6. What were the costs per expenditure item for: (a) the Minister; (b) the Minister’s family; and (c) the Minister’s staff, including but not necessarily limited to: (i) fares, (ii) allowances, (iii) accommodation, (iv) hospitality, (v) insurance, and (vi) other costs.

7. What were the costs per expenditure item for each departmental and/or agency officer, including but not necessarily limited to: (a) fares; (b) allowances; (c) accommodation; (d) hospitality; (e) insurance; and (f) other costs.

8. (a) What was the total cost of air charters used by the Minister or his/her office or department; and (b) how many occasions did the Minister or his/her office or department and/or agency charter aircraft, and in each case, what was the name of the charter company that provided the service and the respective costs.

Senator Coonan—The Minister for Revenue and Assistant Treasurer has provided the following answer to the honourable senator’s question:

1. The Special Minister of State will be answering on my behalf.

2. The very detailed information sought by the honourable member’s question is not readily available in consolidated form and it would be a major task to collect and assemble it. I am not prepared to authorise the expenditure of time and money to do so.

3. The very detailed information sought by the honourable member’s question is not readily available in consolidated form and it would be a major task to collect and assemble it. I am not prepared to authorise the expenditure of time and money to do so.

4. The Special Minister of State will be answering on my behalf.

5. The very detailed information sought by the honourable member’s question is not readily available in consolidated form and it would be a major task to collect and assemble it. I am not prepared to authorise the expenditure of time and money to do so.

6. The Special Minister of State will be answering on my behalf.

7. No Treasury official accompanied the Minister for Revenue and Assistant Treasurer on any overseas trips between the specified period.

8. The Special Minister of State will be answering on my behalf.
Australian School of Fine Furniture
(Question Nos 960 to 962)

Senator O’Brien asked the Ministers listed below, upon notice, on 15 June 2005:

(1) For each financial year since 1 July 1997 can information be provided on undertakings given to fund the Australian School of Fine Furniture (ASFF) in Tasmania and the relevant program(s) under which they were given.

(2) For each financial year since 1 July 1997 can information be provided on actual funds provided to the ASFF and the relevant program(s) under which they were made available.

(3) When was each undertaking to provide Commonwealth funding to the ASFF announced and who made the announcement.

(4) For each undertaking by the Minister or the department to make Commonwealth funding available to the ASFF can information be provided on:
   (a) What due diligence or other examination of the project was carried out to ensure the financial viability of the project and to ensure Commonwealth funds would be effectively used prior to making the undertaking to make funds available to the ASFF.
   (b) Who conducted the due diligence or other examination of the project and how were they selected.
   (c) When did the due diligence or other examination of the project commence and when was it completed.
   (d) What was the cost to the Commonwealth of the due diligence or other examination of the project.
   (e) When was the due diligence or other examination of the project made available to the Minister.
   (f) Can a copy of the due diligence or other examination of the project be provided; if not, why not.

960 Minister representing the Prime Minister
961 Minister representing the Minister for Transport and Regional Services
962 Minister representing the Minister for Education, Science and Training

Senator Vanstone—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

(1) 1997 nil; 1998, The Australian School of Fine Furniture Limited was the recipient of funding under the then Federation Cultural and Heritage Projects Fund. That fund was not administered by the Minister’s Portfolio area and precise details are not available to the Minister; 1999, nil; 2000, nil; 2001, nil; 2002, nil; 2003, nil; 2004, nil.

   In April 2005, the Department of Education, Science and Training entered into a funding agreement with the School under the Australian School of Fine Furniture Assistance Programme.

(2) Actual funds provided to the School under the April 2005 agreement were $151,363.64.

(3) The undertaking on which the April 2005 agreement was based was announced by the Minister on 3 October 2004.

(4) (a) The due diligence undertaken by the Department covered several aspects:

   - Financial position. The Department obtained and analysed the School’s financial statements for the years ended 30 June 2003 and 30 June 2004 and the year-to-date 7 December 2004.
- History checks against internal DEST databases. The Department reviewed its debtors listing and fraud management database to determine whether there is any concern about the School and/or its Board.
- History check by an external credit rating agency. We obtained a report from a credit rating agency in respect of the School and its Directors.

(b) The due diligence was performed by the Risk Management Section of the Procurement, Assurance and Legal Group. The Section typically performs 300 such checks annually.
(c) The due diligence check was requested on 4 January and completed by 10 January.
(d) The external credit report cost $58.88. Risk Management Section staff spent approximately 5 hours performing and reporting the due diligence. The estimated total cost of this, including all direct costs, indirect costs and overheads is approximately $640.
(e) The former Minister for Education, Science and Training was made aware of the outcome of the financial viability examination on 20 January 2005.
(f) It is not appropriate to provide the due diligence report as it contains information the public release of which would, or could reasonably be expected to, unreasonably affect the School’s business affairs.

Civil Aviation Safety Authority: Consultancy
(Question No. 1466)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 17 January 2006:

(1) Has the Civil Aviation Safety Authority (CASA) engaged KordaMentha to undertake a consultancy in relation to the Chief Financial Controller; if so, what was the nature of this work.
(2) What procurement guidelines were followed in relation to the letting of this contract.
(3) If subject to an open tender process, how many tenders were lodged and who lodged tenders.
(4) If subject to a restricted tender process, which companies were invited to lodge a tender and who determined which companies would be invited to submit a tender.
(5) If there was no tender process, on what basis was KordaMentha granted the contract and what process was followed to ensure that CASA received value for money.
(6) (a) When was the contract let; (b) when did work commence; and (c) when was that work completed.
(7) What was the value of the contract and was there any variation in the agreed price; if so: (a) what was the basis for varying the contract price; and (b) who approved the variation in the contract price.
(8) What was the total cost of this work.

Senator Ian Campbell—the Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) The Civil Aviation Safety Authority (CASA) entered into a contract with KordaMentha for the provision of a temporary Chief Financial Controller to manage and oversee CASA’s financial obligations and responsibilities pending recruitment of a permanent Chief Financial Controller.
(2) (3) and (4) The contract was on the basis of KordaMentha as a direct source provider. There was no tender process.
(5) KordaMentha was granted the contract on the basis of their ability to promptly make available a skilled and experienced professional officer to temporarily fill the Chief Financial Controller position pending a permanent appointment, particularly as officers of KordaMentha had gained a de-
tailed understanding of CASA financial issues during a financial due diligence review of the CASA improvement program (refer to Senate Question on Notice 1467). The officer appointed reported through the Chief Operating Officer to the Chief Executive Officer (CEO), giving the opportunity for performance monitoring at the highest level.

(6) (a) The contract was let on 12 February 2004.
(b) Work commenced on 17 February 2004.
(c) That work was completed on 20 August 2004.

(7) The value of the contract was $134,898.50. There was subsequently a variation to the agreed price, and the agreed term of the contract.

(a) The contract price was varied due to delays in the recruitment process for a permanent Chief Financial Officer.
(b) The variation to the contract price was approved by the Chief Executive Officer of CASA.

(8) The total cost of the work undertaken by KordaMentha was $179,885.47.

Civil Aviation Safety Authority: Consultancy
(Question No. 1467)

Senator O’Brien ask the Minister representing the Minister for Transport and Regional Services, upon notice, on 17 January 2006:

(1) Did the Civil Aviation Safety Authority (CASA) engage KordaMentha to undertake a due diligence review of the CASA Improvement Program (CASAIP).

(2) What procurement guidelines were followed in relation to the letting of this contract.

(3) If subject to an open tender process, how many tenders were lodged and who lodged tenders.

(4) If subject to a restricted tender process, which companies were invited to lodge a tender and who determined which companies would be invited to submit a tender.

(5) If there was no tender process, on what basis was KordaMentha granted the contract and what process was followed to ensure that CASA received value for money.

(6) (a) When was the contract let; (b) when did work on the review commence; and (c) when was that work completed.

(7) What was the value of the contract and was there any variation in the agreed price; if so: (a) what was the basis for varying the contract price; and (b) who approved the variation in the contract price.

(8) What was the total cost of the review.

(9) What recommendations did the review make in relation to CASAIP.

(10) Did the review conclude that CASA was receiving an appropriate return, or would receive an appropriate return, from its investment in CASAIP.

(11) Who considered the findings of the review.

(12) Which recommendations were accepted and which recommendations were rejected.

(13) Have all the recommendations made in relation to CASAIP that were accepted now been implemented; if so, when was that work completed; if not, when will that work be completed.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes
(2) and (3) A direct source arrangement was followed, given the immediate need for the review to commence and to achieve an outcome as quickly as possible. Procurement of services, other than construction services, by a CAC Act body such as CASA is exempt from the application of Commonwealth Procurement Guidelines unless the value of the proposed procurement is $400,000 or more. The CASA Procurement Manual recommends tendering for contracts, but for the procurement in question urgency and sensitivity required the use of the most efficient and effective procedure, with direct sourcing the most appropriate option.

(4) KordaMentha Pty Ltd was the company invited to tender for the direct source arrangement. This determination was made by the CEO.

(5) See (2).

KordaMentha was granted the contract on the basis of (a) its professional expertise (b) KordaMentha’s independence from CASA and lack of any conflict of interest with CASA on the basis of it having no prior dealings with CASA (c) KordaMentha’s ability to commence work on very short notice and to continue work over the Christmas and New Year period (d) KordaMentha’s ability to conduct a sensitive review with discretion, flexibility and thoroughness.

An ongoing assurance of value for money was achieved by monitoring the consultant’s performance against the requirements of the assignment. KordaMentha was required to regularly report to the CEO on process, allowing an ongoing assessment of work undertaken against the contract amount, which was capped as to total expenditure. The company was required to produce a written report which was reviewed by the CEO against the terms of reference and his own expectations for the assignment. The report was judged to have satisfactorily met the requirements, within the contract price, and accordingly was considered to have provided appropriate value for money.

(6) (a) 5 December 2003.

(b) 5 December 2003.

(c) 28 February 2004.

(7) The original contract price was $80,000. This was varied in February 2004 to $140,000. (a) and (b).

The full extent of work required to perform a due diligence assessment of the CASA Improvement Program (CASA IP) became apparent after KordaMentha gained access to systems, work and staff. Approval to undertake the further work required was negotiated with the CEO and recorded in a formal amendment to the agreement.

(8) $141,569. (GST Exclusive).

(9) The report provided a number of options. These were:

• Continue as planned to complete Foundation Phases 1 & 2;

• Continue to complete the Foundation Phase 1, then terminate the project; or

• Terminate the project forthwith.

The review made recommendations in relation to specific areas of CASA IP governance, processes and reporting. These recommendations were:

• the streamlining of the CASA IP governance structure;

• the development and implementation of a communications plan with CASA IP stakeholders;

• the financial reporting of total costs directly incurred by all activities due to CASA IP;

• reporting of savings against budget in CASA IP for any one project to use to offset against the total CASA IP budget; and

• a reduction of paperwork and provision of a new ‘scoreboard’ for the Project Sponsor and the Deputy CEO.
(10) The review did not make a finding on whether CASA would receive an appropriate return from CASA IP. The requirement for such a finding was not part of the terms of reference.

(11) The CEO.

(12) The option to complete Foundation Phases 1 and 2 (see 9 above) was followed. The specific recommendations stated in 9 above were implemented.

(13) All actions resulting from the CEO’s decisions following the KordaMentha report have been finalised. Effective completion occurred with the implementation of the Aviation Industry Regulatory System (AIRS) in September 2005.

Civil Aviation Safety Authority: Chief Executive Officer
(Question No. 1472)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 17 January 2006:

(1) Does the Chief Executive Officer (CEO) of the Civil Aviation Safety Authority (CASA) have offices in Melbourne, Moorabbin and Canberra.

(2) What was the total cost of establishing these offices, disaggregated to show relevant costs.

(3) What is the total cost of maintaining these offices, disaggregated to show relevant costs including but not necessarily limited to equipment purchase and hire, maintenance and staffing costs.

(4) Does the CEO also work at a fourth office located at his residence; if so: (a) what was the total cost of establishing this office, disaggregated to show relevant costs; (b) what annual costs are met by CASA, disaggregated to show relevant costs including, but not necessarily limited to, equipment purchase and hire, maintenance and staffing; (c) what equipment has been purchased and/or hired for this office; and (d) what rules apply to the use of this equipment.

(5) In the 2004-05 financial year, what period of time, other than weekends, was spent by the CEO working out of the office at his residence.

(6) In the 2004-05 financial year, how many full working days did the CEO spend at: (a) his Canberra office; (b) his Moorabbin office; (c) his Melbourne office; and, if applicable (d) his home office.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) The Chief Executive Officer (CEO) of the Civil Aviation Safety Authority (CASA) maintains an office at the Authority’s Central Office in Canberra and at the Moorabbin Field Office. On the occasions that the CEO works from CASA’s Melbourne Field Office, Mr Byron works from an existing project room.

(2) When working in Canberra, the CEO uses the office space established by the former Director of CASA. No additional costs have been incurred by CASA on the office used by the CEO when in Canberra.

When working in the Melbourne Field Office, the CEO uses existing office space. No additional costs have been incurred by CASA on the office used by the CEO when in the Melbourne Field Office.

With regard to the office in Moorabbin, the total cost of establishing each office, disaggregated to show relevant costs is outlined below.

<table>
<thead>
<tr>
<th>Moorabbin</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Works</td>
<td>$45,365</td>
</tr>
<tr>
<td>Furniture</td>
<td>$11,668</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
QUESTIONS ON NOTICE

Moorabbin

Professional Fees (architectural and engineering) $ 6,150
Total $63,183

(3) Costs of maintaining these offices, insofar as they can be identified separately from other organisational overheads, such as maintenance, utilities and telephone, are as follows.

<table>
<thead>
<tr>
<th>Office</th>
<th>Equipment / Service</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moorabbin</td>
<td>Purchase of one Logitech BLK Cordless Duo Set</td>
<td>$139.63</td>
</tr>
<tr>
<td></td>
<td>One Toshiba Advanced Port Replicator</td>
<td>$310.48</td>
</tr>
<tr>
<td>Canberra</td>
<td>Staffing costs (One support staff who works for both the CEO and Deputy CEO)</td>
<td>$30,000 (estimated 50% of this staff cost)</td>
</tr>
</tbody>
</table>

(4) The CEO is required to work from his residence on occasions, using existing office facilities provided by the CEO. No expense has been incurred by CASA for the physical establishment of an office. Costs incurred by CASA relate only to equipment purchase and running costs.

(a) Not applicable, as no office has been established by CASA.
(b) The following annual cost is met by CASA to enable the CEO to work from his residence.
   Monthly charge for satellite telephone link $89.95.
(c) The following equipment has been purchased/installed.
   Fax/printer $200.00 (approx).
   One Logitech BLK Cordless Navig Duo Set $139.63.
   One Toshiba Advanced Port Replicator $310.48.
   Installation of satellite telephone link (including $1,896.75 first month charge of $89.95).
(d) The rules that apply to the use of the equipment purchased for business purposes for the CEO’s residence are set out in CASA’s Code of Conduct and Policy on Use of Information Technology & Telecommunications Resources. Copies of these are attached.

(5) The CEO’s records for the financial year 2004-05 do not provide full details of work venues when in Melbourne. Based on best estimates the CEO believes he spent up to 14 days working from his home office in 2004-05.

(6) Based on records for when Mr Byron travelled interstate the following estimates are provided for the number of days in each location:
   Canberra 81
   Other interstate/visits 68
   Melbourne or Moorabbin 73 (estimated)
   Home Office 14 (estimated)

Civil Aviation Safety Authority: Audit and Risk Committee

(Question No. 1478)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 17 January 2006:
With reference to the Civil Aviation Safety Authority (CASA) Audit and Risk Committee:
(1) When was the committee established.
(2) Who initiated its establishment.
(3) Who has chaired the committee and, in each case, what were the terms of the appointment.
(4) Who has been appointed to the committee and, in each case: (a) what were the terms of the appointment; and (b) was the appointee a CASA employee, contractor or consultant; if a contractor or consultant, what was the name of the company that employed the appointee.

(5) What audits have been undertaken by the committee and, in each case: (a) who determined the audit would be undertaken; (b) when did the audit commence; (c) when was it completed; and (d) what was the outcome of the audit.

(6) In addition to the Audit and Risk Committee, what other audit processes are in place within CASA.

(7) Since 1 January 2003, what audits have been undertaken using these other audit processes and, in each case: (a) who determined the audit would be undertaken; (b) when did the audit commence; (c) when was it completed; and (d) what was the outcome of the audit.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) CASA has had an audit Committee since mid 1997, when the Operational and Internal Audit Committee was established. The Committee first met on 23 October 1997. CASA has maintained an audit committee since that time, the current committee being designated the Audit and Risk Committee.

(2) The establishment of the original committee was initiated by the then Board of CASA, pursuant to the requirements of the Commonwealth Authorities and Companies Act 1997. Members of the current committee were appointed by the Chief Executive Officer.

(3) Committee chairs and terms of appointment are as follows:

<table>
<thead>
<tr>
<th>Committee chair</th>
<th>Term of Appointment</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr Laurie Foley</td>
<td>October 1997 to June 1998</td>
<td>Member of CASA Board</td>
</tr>
<tr>
<td>Mr Tony Pyne</td>
<td>July 1998 to March 2000</td>
<td>Member of CASA Board</td>
</tr>
<tr>
<td>Ms Megan Cornelius</td>
<td>April 2000 to June 2003</td>
<td>Member of CASA Board</td>
</tr>
<tr>
<td>Mr James Kimpton</td>
<td>July 2003 to September 2003</td>
<td>Member of CASA Board</td>
</tr>
<tr>
<td>Mr Neil Smith</td>
<td>October 2003 to March 2004</td>
<td>Member of CASA Board</td>
</tr>
<tr>
<td>Ms Barbara Yeoh</td>
<td>April 2004 to present</td>
<td>Employed under contract</td>
</tr>
</tbody>
</table>

Ms Yeoh is appointed under a contract with Barbara Yeoh and Associates.

(4) In addition to the Committee chairs listed in Question 3, members of the Committee and their terms of appointment are as follows:

<table>
<thead>
<tr>
<th>Committee chair</th>
<th>Term of Appointment</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dr Paul Scully-Power</td>
<td>October 1997 to June 1999</td>
<td>Member of CASA Board</td>
</tr>
<tr>
<td>Ms Megan Cornelius</td>
<td>July 1999 to March 2000</td>
<td>Member of CASA Board</td>
</tr>
<tr>
<td>Mr Michael Ryan</td>
<td>July 1999 to December 2000</td>
<td>Member of CASA Board</td>
</tr>
<tr>
<td>Mr James Kimpton</td>
<td>January 2001 to June 2003</td>
<td>Member of CASA Board</td>
</tr>
<tr>
<td>Mr Tony Pyne</td>
<td>March 2000 to December 2000</td>
<td>Member of CASA Board</td>
</tr>
<tr>
<td>Mr Edward Anson</td>
<td>July 2003 to October 2004</td>
<td>Member of CASA Board</td>
</tr>
<tr>
<td>Mr Neil Smith</td>
<td>September 2002 to Sept. 2003</td>
<td>Member of CASA Board</td>
</tr>
<tr>
<td>Mr Rob Collins</td>
<td>October 2003 to November 2003</td>
<td>CASA employee</td>
</tr>
<tr>
<td>Ms Karen Nagle</td>
<td>October 2003 to April 2004</td>
<td>CASA employee</td>
</tr>
<tr>
<td>Mr Bruce Gemmell</td>
<td>December 2004 to present</td>
<td>CASA employee</td>
</tr>
<tr>
<td>Mr Peter Yuile</td>
<td>October 2003 to April 2004</td>
<td>DOTARS employee</td>
</tr>
<tr>
<td>Mr Martin Dolan</td>
<td>April 2004 to October 2005</td>
<td>DOTARS employee</td>
</tr>
<tr>
<td>Mr Michael Lewis</td>
<td>April 2004 to present</td>
<td>Employed under contract</td>
</tr>
</tbody>
</table>

Mr Lewis is appointed under a contract with MKL Consulting Pty Ltd.
(5) The Audit and Risk Committee does not undertake audits. The internal audits to be undertaken are a decision for CASA management, with the Chief Executive Officer having ultimate responsibility. The bulk of internal audit work is contracted to commercial audit organisations. One of the Committee’s responsibilities is to review CASA’s proposed annual audit program and to recommend such changes as it considers appropriate. The Committee oversees the audit program and reviews management’s responses to audit reports. The Committee also considers the work of the Australian National Audit Office in their external financial audit of CASA. A list of audits undertaken from 2000/2001 onwards is attached (Attachment A).

(6) CASA has an extensive program of operational audits conducted by CASA inspectors on a range of aviation industry operators. This is a major element of CASA’s aviation safety surveillance program and is not related to audits of CASA internal processes and procedures. A small number of separate reviews, in the nature of internal audits, have been conducted. The ANAO also undertakes, at its instigation, performance and compliance audits specifically directed towards CASA, or on a ‘whole-of-government’ basis where CASA may be one of a number of agencies subject to the audit. The specific ANAO audits are listed in Attachment B.

(7) (a) to (d) Since 1 January 2003 the following separate reviews have been conducted.

   (i) Financial Due Diligence Review by KordaMentha Pty Ltd
   The CEO commissioned the review in December 2003 and it was completed in February 2004. The report provided guidance to the CEO on CASA’s expected financial position to June 2006, with a particular focus on the CASA IP project. It assisted the CEO to direct a refocussing of the project, to enhance functionality and deliver cost savings.

   (ii) Review of CASA Market Testing Procurement Procedures
   The CEO commissioned the review, undertaken by Ms Barbara Yeoh, in September 2005 and it was completed in November 2005. The report provided confirmation that CASA’s procurement and conflict of interest policies had been properly observed in respect of tender arrangements for market testing service providers.

   (iii) Report on CASA’s Governance Arrangements
   Review commissioned by management in September 2004 and conducted by Phillips Fox. The report was completed in November 2004. The review assisted the CEO to identify key governance issues associated with CASA’s new structure under the Civil Aviation Act, and to take account of those issues in developing management policies and procedures.

   (iv) Review of CEO’s Travel Expenses
   The review was commissioned by the CEO in September 2005, was undertaken by KPMG and was completed in December 2005. The report provided confirmation that travel expenses incurred were in conformity with relevant guidelines.

Civil Aviation Safety Authority: Medical Certificates
(Question No. 1602)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 27 February 2006:

(1) How many current medical certificates are endorsed ‘renew by CASA only’?
(2) How are applications for renewal of medical certificates endorsed ‘renew by CASA only’ assessed.
(3) Are all officers responsible for assessing applications for renewal of medical certificates endorsed ‘renew by CASA only’ registered with a medical registration authority of a state or territory of the Commonwealth; if not, why not.

QUESTIONS ON NOTICE
(4) What service standards apply to the assessment of applications for renewal of medical certificates endorsed ‘renew by CASA only’.

(5) Are all officers responsible for the appointment of Designated Aviation Medical Examiners registered with a medical registration authority of a state or territory of the Commonwealth; if not, why not.

(6) Is it a requirement that the Principal Medical Officer or an officer acting in that position is registered with a medical registration authority of a state or territory of the Commonwealth; if not, why not.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) There are 43,284 individuals in the CASA Medical Records System (MRS) with a current medical certificate. Of these, 2190 have a medical certificate that has the condition ‘renew by CASA only’. This number changes constantly as the ‘renew by CASA’ condition can be added to or removed from a certificate, should the need to amend the certificate arise. The validity period does vary depending on the medical condition and the type of certificate involved.

(2) An initial assessment is undertaken by the CASA MRS Expert System, checked by a CASA medical assessor and then passed to the CASA medical officer for final assessment. The criteria used for assessing medical certification applications are set out in the Civil Aviation Safety Regulations (PART 67) and the Designated Aviation Medical Examiners Handbook.

(3) A CASA medical officer is required to assess an application where the ‘renew by CASA only’ condition applies. All CASA medical officers are registered with a medical registration authority of a State or Territory of the Commonwealth.

(4) An application for a medical certificate where the ‘renew by CASA only’ condition applies is given priority because the option for the Designated Aviation Medical Examiner (DAME) to extend the validity period is not available. CASA has not yet published service standards for medical certification.

(5) No, they are not registered with a medical registration authority because an appointment of a DAME is an administrative process and does not involve medical registration or qualifications.

(6) It is a requirement that the Principal Medical Officer or person acting in that position be registered with a medical registration authority of a State or Territory of the Commonwealth.

**Pap Smears**

(Question No. 1719)

**Senator Allison** asked the Minister representing the Minister for Health and Ageing, upon notice, on 4 May 2006:

(1) Is the Minister aware of the recent letter in the *Australian Doctor* magazine that reports that some medical practices are refusing to perform Pap smears.

(2) What information is available on the prevalence of medical practitioners or medical practices refusing to provide services to patients requesting them, including the nature of the services.

(3) What information is available on the reasons that medical practitioners or medical practices may be refusing to provide services to patients requesting them.

(4) Does the Government intend to investigate why some medical practitioners or medical practices may be refusing to perform particular services; if not, why not.

(5) What are the legal requirements for medical practices and individual medical practitioners with regard to providing access to medical services.
(6) What processes, if any, does the Government require medical practitioners receiving government funds to put in place to ensure that their patients have access to comprehensive medical care.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) Yes. I am aware of the letter in the Australian Doctor magazine of 17 March 2006 and subsequent media coverage.

(2) Prior to this media coverage, the Department of Health and Ageing had not received any reports of GPs refusing to do Pap smears.

(3) Media reports have suggested that doctors may be refusing to do Pap smears because of medico-legal considerations.

(4) The Department of Health and Ageing has investigated these reports and it appears the reports refer to a few isolated incidences. The department will continue to monitor any reports of this nature.

(5) The Government does not legislate the services that must be provided by a medical practitioner. Services provided by individual medical practices are a matter for medical professionals. However, peak professional bodies may set standards of practice. For example, the Royal Australian College of General Practitioners’ standards define general practice as the provision of primary continuing, comprehensive, whole-patient medical care to individuals, families and their communities.

Individuals who have concerns about their medical practitioner may complain to the Medical Registration Board or Health Complaints Commissioner in their state or territory.

(6) Government funding for medical services is a mix of fee-for-service and incentive payments. Medicare provides a patient rebate for services provided by medical practitioners. Medical practitioners must be registered and qualified to undertake the services they provide. Payment is based on Medicare Benefits Schedule items claimed rather than an agreement to provide a particular range of services.

General practices wishing to access financial incentives through the Practice Incentives Program must provide services from an accredited general practice. These general practices must meet professional standards including the provision of initial, continuing, comprehensive and coordinated medical care. Around 80% of general practice care is provided from accredited practices participating in the Practice Incentives Program.

Mr Dragan Vasiljkovic
(Question No. 1785)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 10 May 2006:

(1) Was the notice to extradite Dragan Vasiljkovic issued by the Minister for Justice and Customs rather than the Attorney-General; if so, on what basis was the Minister authorised to issue this notice.

(2) Has either the Minister or the Attorney-General, or either of their departments, had any communications regarding the representation of Dragan Vasiljkovic with members of Parliament, or Mr Tom Hughes QC, or any other legal representatives; if so, can the following details be provided:
(a) the date of communication;
(b) the method of communication;
(c) all parties to the communication;
(d) the part which initiated contact; and
(e) a copy of the communication where available, or a summary of the exchange that took place.
Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) Yes. Section 19A of the Acts Interpretation Act 1901 (Cth) allows me to exercise the Attorney-General’s power under the Extradition Act 1988 (Cth). On 18 March 2006, I issued a notice under section 16 of the Extradition Act regarding Mr Dragan Vasiljkovic. As required by section 16 of the Extradition Act, in issuing that notice I formed the opinion that all the statutory preconditions for issuing the notice had been met.

(2) Yes. Because these communications relate to the ongoing litigation currently before the High Court it is not appropriate for me to comment further.